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Counsel for Secured Creditor, 12345 Lakeland, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

LAKELAND DEVELOPMENT
COMPANY,

Debtor.

Case No: 2:12-bk-25842-RN

Chapter 11

**RESPONSE TO DEBTOR'S UPDATED
CHAPTER 11 STATUS REPORT RE:
(1) DEBTOR'S CONTINUED USE OF CASH
COLLATERAL;
(2) EXTENSION OF EXCLUSIVITY; AND
(3) STATUS CONFERENCE.**

Hearing:

Date: January 24, 2013
Time: 2:00 p.m.
Place: Courtroom 1645
255 East Temple Street
Los Angeles, CA 90012

This is like déjà vu all over again. The Debtor has again failed to meet any of its promised milestones and projected deadlines in this case. 12345 Lakeland, LLC ("12345 Lakeland"), the holder of the senior deed of trust against 38 acres of the Debtor's land that secures a claim of approximately \$3.5 million, along with other creditors, has been waiting for nearly nine months while the Debtor has made little to no progress towards a viable plan of reorganization. The Debtor now seeks court authorization for further delay. Of course, as the Court knows, the Debtor has been promising 12345 Lakeland for years, pre and post-petition, that the Debtor was on the verge of a deal to sell the Debtor's

1 real property to pay off the amounts owed to creditors. The Debtor should not be allowed to continue
2 dissipating 12345 Lakeland's cash collateral without having made any progress in this case.

3 **A. Sale of the 38 Acres** – In addition to many failed transaction in the years leading up to
4 the bankruptcy, since May 4, 2012 (the "Petition Date"), the Debtor has "entered into" or promised
5 agreements with not one, not two, but three separate entities for the potential sale of 12345 Lakeland's
6 real property collateral. Prior to the Petition Date, the Debtor located a potential buyer for the property,
7 Western Realco ("Western"). On the eve of the bankruptcy, the Debtor granted Western a due
8 diligence extension and, after two additional extensions and nearly six months of due diligence,
9 Western abandoned the purchase of the 38 acres.

10 The Debtor then indicated that it had located another potential purchaser for the property,
11 International Risk Group ("IRG"), a firm which specializes in environmental remediation of
12 contaminated properties. That deal also fell through.

13 In the Chapter 11 Status Report filed on January 10, 2013 (the "Status Report"), the Debtor
14 indicates that it has found a third purchaser for the property, Goodman Birtcher. On a conference call
15 on January 17, 2013, however, the Debtor indicated that (1) the Debtor has already granted Goodman
16 Birtcher an extension of its due diligence period, and (2) the Debtor has not received any deposits from
17 Goodman Birtcher that would prove that Goodman Birtcher is committed to the purchase. If the past is
18 any indication, the sale to Goodman Birtcher will likely take many more months, if not years, to bring
19 to fruition, if at all. As a consequence, the plan of reorganization designed around this sale may never
20 become feasible or could take years to implement, and creditors would bear the burden of the delay
21 while the Debtor continually searches for untenable alternatives.

22 **B. The Ridgeline Deal Has Not Closed** - The Motion (the "Ridgeline Motion") to Assume
23 the Asset Purchase Agreement and entry into the Lease and Option Agreement with Ridgeline Energy
24 Services Inc. ("Ridgeline") was granted by the Court and the order entered on September 26, 2012. In
25 its objection to the Ridgeline Motion, 12345 Lakeland identified a number of contingencies that could
26 potentially delay or prevent the consummation of the sale, including the transfer to Ridgeline of the
27 Conditional Use Permit ("CUP") issued by the City of Santa Fe Springs. At the hearing on the
28 Ridgeline Motion, Ridgeline indicated that it was ready to proceed with the transaction immediately.
To date, nearly four months after the Ridgeline deal was approved, the deal has not closed. While

1 12345 Lakeland was initially told that the closing of the transaction was delayed until the Court
2 approved the settlement the Debtor reached with the EPA, the Debtor now indicates that, just as
3 predicted by 12345 Lakeland, Ridgeline will not go forward with the deal unless, and until, the CUP is
4 transferred to Ridgeline. The Debtor indicates that the City will not act upon the transfer until March.
5 There is no guaranty that the city will approve the transfer, and, if the past is any indicator, the City
6 could again postpone the hearing as it has done several times over the past months.

7 **C. Cash Collateral** - During the first eight months of the case, the Debtor used over \$1.6
8 million of 12345 Lakeland's cash collateral to pursue deals and promise transactions that have not
9 materialized. The Debtor now requests that the Court grant the Debtor the ability to use an additional
10 approximately \$1 million to continue pursuing highly contingent deals that will, if history is any guide,
11 never happen. While 12345 Lakeland has been prohibited from exercising its rights and remedies to
12 collect on its debt, the Debtor will have used more than \$2.6 million of 12345 Lakeland's cash
13 collateral without consummating any sale of the Debtor's property.

14 Moreover, if the Ridgeline deal fails to close because the City of Santa Fe Springs does not
15 approve the transfer of the CUP, or for any other reason fabricated by Ridgeline, the Debtor will have
16 no income to fund its operations, and 12345 Lakeland's cash collateral will quickly diminish.

17 **D. The Plan is Not Viable** - The Debtor's "proof" that it is making progress towards
18 reorganization is that it has filed plan of reorganization and disclosure statement by the deadline
19 imposed by the Court. The Debtor's Plan and Disclosure Statement, however, are incomplete,
20 premature and highly contingent, with very little prospects for confirmation. The Plan is premised on a
21 sale of the 38 acres to a potential purchaser. As we have seen over the last nearly nine months, the
22 Debtor has been unable to bring that sale, or any sale, to closure. Moreover, the Plan proposes that
23 certain claims of subrogated insurers for contribution and indemnity against the Debtor based upon
24 successor liability as the owner of contaminated property will be disputed and estimated for distribution
25 purposes. These claims will share pro rata with General Unsecured Claims, without interest. The
26 Debtor has not begun this objection process and it could take years to determine the pro rata share to be
27 paid to all General Unsecured Claims:

28 The documents themselves are also incomplete. The Disclosure Statement is missing several
key pieces of information, including a 2012 profit and loss statement, a list of unexpired leases and

1 executory contracts to be assumed, and lists of priority and non-priority unsecured creditors. How the
2 Debtor expects to convince the Court that it has made any progress with such a transparently hollow
3 plan, is incredulous.

4
5 Dated: January 22, 2013

PEITZMAN WEG LLP

6
7 By: /s/ Lorie A. Ball
8 Lorie A. Ball

9 Attorneys for 12345 Lakeland, LLC
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Peitzman Weg LLP
2029 Century Park East, Suite 3100
Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **Response To Debtor's Updated Chapter 11 Status Report Re: (1) Debtor's Continued Use Of Cash Collateral; (2) Extension Of Exclusivity; And (3) Status Conference** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **January 22, 2013** I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Lorie A Ball lball@peitzmanweg.com
- Richard T Baum rickbaum@hotmail.com, rickbaum@hotmail.com
- Russell Clementson russell.clementson@usdoj.gov
- Joseph Corrigan Bankruptcy2@ironmountain.com
- Barry S Glaser bglaser@swjlaw.com
- Noah M Golden-Krasner noah.goldenkrasner@doj.ca.gov, gwen.blanchard@doj.ca.gov
- Lawrence M Jacobson lmj@gfjlawfirm.com
- Lance N Jurich ljurich@loeb.com, kpresson@loeb.com
- Ronald E Ostrin ron@ostrinlaw.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Jeanne C Wanlass jwanlass@loeb.com, kpresson@loeb.com
- Howard J Weg hweg@peitzmanweg.com
- Stephen Wong swong@spcclaw.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **January 22, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Please see the attached service list

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **January 22, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method); by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served Via Overnight Mail

Honorable Richard M. Neiter
U.S. Bankruptcy Court
Roybal Federal Building
255 E. Temple Street, Suite 1652
Los Angeles, CA 90012-3332

Served Via Overnight Mail

Office of the United States Trustee
Russell Clementson
725 South Figueroa Street, 26th Floor
Los Angeles, CA 90017

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 22, 2013

Date

Matthew M. Dryer

Printed Name

/s/ Matthew M. Dryer

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Additional Service List (All By U.S. Mail):

Robertson Charitable Remainder
c/o Louis Isakoff, Esq.
977 Centerville Trpk, SHB 202
Virginia Beach, VA 23463

Braverman & Co., P.C.
331 Madison Avenue
New York, NY 10017

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515 South Flower Street
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Los Angeles, CA 90071

Richard G. Murray
25301 Cabot Rd Ste 110
Laguna Hills, CA 92653

Braverman & Associates PC
Scott S Greenspun Esq
331 Madison Avenue
New York, NY 10017

City of SFS-Legal (Planning)
11710 E. Telegraph Road
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City of SFS-License
11710 E. Telegraph Road
Santa Fe Springs, CA 90670-3658

City of SFS-Planning & Development
11710 E. Telegraph Road
Santa Fe Springs, CA 90670-3658

County Sanitation Dist No 2
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c/o Johanna A Sanchet
221 N Figueroa St #1200
Los Angeles CA 90012-2663

Loeb & Loeb LLP
Albert M. Cohen Esq
10100 Santa Monica Boulevard
Los Angeles, CA 90067-4120

Los Angeles County Treasurer
and Tax Collector
PO Box 54110
Los Angeles, CA 90054-0110

Paladin Global Alternative Energy
Fund LP
c/o Paladin Capital Group
2020 K St NW Ste 400
Washington, DC 20006-1870

Reg. Water Quality Control
Roger Briggs
895 Aerovista Pl., Ste 101
San Luis Obispo, CA 93401-8725

Renewable Energy Products LLC
E Kenneth Pentimonti, CFO
c/o Paladin Capital Group
2020 K St NW Ste 400
Washington, DC 20006-1870

Robertson Charitable Remainder
c/o Louis Isakoff, Esq
977 Centerville Trpk, SHB 202
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Attorneys for Debtor and Debtor-in-Possession
LAKELAND DEVELOPMENT COMPANY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

LAKELAND DEVELOPMENT
COMPANY,

Debtor.

No. 2:12-bk-25842 RN

Chapter 11

NOTICE OF MOTION FOR ORDER
APPROVING SETTLEMENT
AGREEMENT WITH THE PALADIN
PARTIES AND THE REP PARTIES

[Hearing not scheduled - LBR 9013-1(o)(1)]

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that Debtor Lakeland Development Company ("Debtor" or "Lakeland") moves the Bankruptcy Court for an Order Approving the Compromise and Settlement between Lakeland Development Company ("Lakeland" or "Debtor"), Energy Merchant Corp. ("EMC"), Energy Merchant Holding, Inc. ("EM Holding"), Siegfried Hodapp ("Hodapp") and Vincent Papa ("Papa") collectively the "Lakeland Parties", on one hand,

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

and Paladin Global Alternative Energy Fund, L.P., Paladin III, L.P., Paladin III (NY City), L.P., Paladin III (Cayman Islands), L.P., Paladin III (CA), L.P., Paladin Biodiesel I, Inc., Paladin Biodiesel II, Inc., Paladin III (HR), L.P. and Paladin Institutional Co-Investment Fund, L.P. (collectively, the "Paladin Funds"); Renewable Energy Products, LLC ("REP") and REP-LA1, LLC ("LA1"), REP-LA2, LLC ("LA2"), collectively, the "REP Entities" (the Paladin Funds and the REP Entities are referred to collectively herein as "Paladin/REP"), on the other hand.

The Agreement contains the following material terms, among others:

1. Bankruptcy Court Approval.

The Agreement is not binding unless this settlement is approved by the bankruptcy Court.

2. Compromise of the Paladin/REP Parties' Claim and Payment by the Debtor

Concurrent with the closing of Debtors' sale of the 38 Acre Parcels to Goodman Santa Fe Springs SPE LLC ("Goodman"), the Lakeland Parties will pay the total sum of \$600,000.00 to Paladin III, L.P. The payment shall be made in consideration of the Paladin/REP releases set forth below, the release of the *Lis Pendens* on Lakeland's property, and the withdrawal of proofs of claim in excess of \$44,000,000.

3. Releases

The Lakeland Parties and each persons or entities claiming by, through or under the Lakeland Parties waive their right to recover from and fully, and irrevocably release Paladin/REP, Paladin/REP and each persons or entities claiming by, through or under the Paladin/REP waive their right to recover from and fully, and irrevocably release the Lakeland Parties.

Paladin/REP will deliver its withdrawal of *Lis Pendens* upon the 38 acre parcels upon payment of the of \$600,000 through escrow. It will release claims against the debtor and certain parties related to the bio-diesel facility including REP and LA1. The

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

Parties agreed to pay their own Attorneys' fees in connection with the Arbitration, the Paladin/REP action, the negotiation and execution of the agreement and any prior matter thereto. The withdrawal of the *Lis Pendens* will allow the Debtor's sale of its 38 acre parcels to Goodman Santa Fe Springs SPE LLC to close.

PLEASE TAKE FURTHER NOTICE that the Motion is based upon the Motion filed concurrently herewith, the Memorandum of Points and Authorities, the Declarations of Lawrence Jacobson and Vincent Papa attached thereto, and such other and further grounds as may be properly presented to the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Bankruptcy Rule 9013-1(o)(1), you are hereby advised that unless an objection along with a request for a hearing is properly filed and served within fourteen (14) days after the date of this Notice, a proposed order will be lodged by the Debtor approving the proposed Agreement, as more particularly described in the Motion. Any response or opposition to the Motion shall be stated in writing, filed with the Court, and served on the attorneys for the Debtor at the addresses set forth on the first page of this motion, on the United States Trustee at: 915 Wilshire Boulevard, Suite 1850, Los Angeles, California 90017 and on all creditors and other parties in interest who are entitled to notice. If you fail to file a written response within fourteen (14) days after the date of the service of this Notice, the Court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

DATED: April 9, 2014

LAW OFFICES OF RICHARD T. BAUM and
GLICKFELD, FIELDS & JACOBSON

/s/ Richard T. Baum

RICHARD T. BAUM, Attorneys for Debtor-in-
Possession LAKELAND DEVELOPMENT
COMPANY

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 11500 West Olympic Boulevard, Suite 400, Los Angeles, California 90064-1525. A true and correct copy of the foregoing document described as NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH THE PALADIN PARTIES AND THE REP PARTIES will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d), and (b) in the manner indicated below.

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") Pursuant to controlling General Orders and Local Bankruptcy Rules ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On April 9, 2014 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

• Lorie A. Ball - lbalk@peitzmanweg.com
• Richard T. Baum - rick.baum@hotmail.com, rick.baum@ecf.informruptcy.com
• Joseph Corrigan - Bankruptcy2@ironmountain.com
• Scott D. Friedberg - sfriedberg@theseaportgroup.com, sdfriedberg@gmail.com
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• United States Trustee (L.A.) - ustregion16.laccf@usdoj.gov
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• Stephen Wong - swong@speclaw.com
• Hatty K. Yip - hatty.yip@usdoj.gov

El Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served): On April 9, 2014, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed. El Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Cv.P. 5 and/or controlling LBR, on April 9, 2014 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Judge Richard Neiter, bin outside courtroom 1645, 255 East Temple Street, Los Angeles, California 90012 (hand delivered by attorney service)

El Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

April 9, 2014

Richard T. Baum

/s/ Richard T. Baum

Date	Type Name	Signature
------	-----------	-----------

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California January 2009

F-9013.1.1

1 Served by US Mail:

2	Environmental Protection Agency, 75 Hawthorne St San Francisco, CA 94105	Burleigh Brewer, Esq 4041 MacArthur Blvd Suite 350 Newport Beach, CA 92660	COSTCO/HSBS Business Solution PO Box 5219 Carol Stream, IL 60197-5219
4	12345 Lakeland LLC National Registered Agents Inc 160 Greenlee Drive, Ste 101 Dover, DE 19904	CA Dept. of Health Services PO Box 997414 Sacramento, CA 95899-7414	County of Sanitation District 1955 Workman Mill Road Whittier, CA
6	12345 Lakeland, LLC 17901 Von Karman Suite 950 Irvine, CA 92614	South Cal. Operation C. Rudolph Dpt Toxic Control PO Box 806 Sacramento, CA 95812-0806	CT Corporation PO Box 449 Carol Stream, IL 60197-4349
8	AAVCO Electric 13746 Crewe Street Whittier, CA 90605	Chemtek Environmental Lab Inc. 13554 Larwin Circle Santa Fe Springs, CA 90670	Dept of Motor Vehicles PO Box 942894 Sacramento, CA 94294-0300
10	Aetna Health California PO Box 894920 Los Angeles, CA 90189-4920	City of SFS-Fire Department 11300 Greenstone Ave Santa Fe Springs, CA 90670	Dept. of Industrial Relations Division of Labor Standards 300 Ocean Gate, Ste 302 Long Beach, CA 90802-4339
12	American Express PO Box 0001 Los Angeles, CA 90096-0001	City of SFS-Fire Department 11300 Greenstone Ave Santa Fe Springs, CA 90670	Dion & Son, Inc. 1543 W. 16th Street Long Beach, CA 90813
14	American Specialty Health Dept. LA 23078 Pasadena, CA 91185-3078	City of SFS-Legal(Planning) 11710 E. Telegraph Road Santa Fe Springs, CA 90670	Environment & Natural Resource PO Box 7611 Washington, DC 20044-7611
16	Arrowhead A Division of Nestle Waters PO Box 856158 Louisville, KY 40285-6158	City of SFS-License 11710 E. Telegraph Road Santa Fe Springs, CA 90670-3658	Federal Express Corporation PO Box 7221 Pasadena, CA 91109-7321
18	Bingham McCutchen LLP PO Box 3486 Boston, MA 02110	City of SFS-Planning & Developmt 11710 E. Telegraph Road Santa Fe Springs, CA 90670	Franchise Tax Board Attn: Bankruptcy PO Box 2952 Sacramento, CA 95812-2952
20	Blank Rome, Lockbox #8586 PO Box 8500 Philadelphia, PA 19178-8586	Conn, Robert 22503 Kent Avenue Torrance, CA 90505	Garcia Joseph J. PO Box 5311 Norco, CA 92860
22	Braverman & Co. P.C. 331 Madison Avenue New York, NY 10017	Consolidated Disposal Service PO Box 78829 Phoenix, AZ 85062-8010	Glickfeld Field & Jacobson LLP 9720 Wilshire Blvd, Suite 700 Beverly Hills, CA 90212
24	Brownstein Hyatt Farber Schreck Steven M. Sommers, Esq 410 Seventeenth St, Ste 2200 Denver, CO 80202-4432	Continental Building Inc. 13316 Maple Dale Street Norwalk, CA 90650	Golden West Machine 9930 Jordan Circle Santa Fe Springs, CA 90670

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

1	Greenline Products 13249 F. Imperial Highway Whittier, CA 90605	Micronet Computer Consultants 12631 East Imperial Highway Building A, Suite A 211 Santa Fe Springs, CA 90670	Ricoh Americas Corp. Lease PO Box 6434 Carol Stream, IL 60197-6434
3	Home Depot Credit Services PO Box 6031 The Lakes, NY	Morse & Associates, Inc. 977 Centerville Turnpike, SHR Virginia Beach, VA 23463	Ricoh Americas Corporation PO Box 4245 Carol Stream, IL 60197-4245
5	International Risk Group 7991 Shaffer Parkway Suite 400 Littleton, CO 80127	Muncy Environmental, Inc. 2640 Walnut Avenue, Unit F Tustin, CA 92780	Ridgeline 7041 Greenway Parkway Ste 210 Scottsdale, AZ 85254
7	Iron Mountain PO Box 27128 New York, NY 10067-7128	Norwalk/Elm Mirada 11661 E. Firestone Blvd Norwalk, CA 90650	Robertson Charitable Remainder c/o Louis Isakoff, Esq 977 Centerville Turnpike, SHR 202 Los Angeles, CA 90071
9	Isola Law Group, LLP 405 West Pine Street Lodi, CA 95240	PDQ Rental Center 10826 Shoemaker Santa Fe Springs, CA 90670	Sanitation District 1955 Workman Mill Road Whittier, CA 90601-1400
11	Ken Spiker Jr./OC Office 605 Frankfort Ave Huntington Beach, CA 92648	Principal Financial Group PO Box 2000 Mason City, IA 50402-2000	Salv Edwin 4618 Opal Street Riverside, CA 92509
13	Keystone Electric 1969 Freeman Ave Signal Hill, CA 90755	Pumping Solution Inc 1400 S Vineyard Ave Ontario, CA 91761	Seyfarth Shaw LLP Stacey H. Peak 333 S. Hope Street, Ste 3900 Los Angeles, CA 90071
15	Loeb & Loeb LLP Albert M. Cohen Esq 10100 Santa Monica Bl #2200 Los Angeles, CA 90067	FVE Sales, Inc. 13707 Boudle Street Santa Fe Springs, CA 90670-511	Sheppard Mullin 333 South Hope St 48th floor Los Angeles, CA 90071-1448
17	Los Angeles County Tax Collect PO Box 54018 Los Angeles, CA 90054	R.B. Paint & Body Center 10850 Norwalk Blvd Santa Fe Springs, CA 90670	South Coast A.O.M.D. PO Box 4943 Diamond Bar, CA 91765-0943
19	M Industrial Mechanical, Inc PO Box 22624 Long Beach, CA 90801	Rogel Biggs 885 Aerovista Pl., Ste 101 San Luis Obispo, CA 93401	Southern Cal Gas Co PO Box C Monterey Park, CA 91756
21	Mechanical Seal Repair 3188 Orange Avenue Signal Hill, CA 90755	Reliable Equipment Rental Inc. 8331 Common Buena Park Buena Park, CA 90621	Southern California Edison PO Box 600 Rosemead, CA 91771-001
23	Melholm USA 6555 Pelican Creek Circle Riverview, FL 33578	REF I A 1, LLC 2001 Pennsylvania Ave NW Suite 400 Washington, DC 20006	Standard Insurance Co. PO Box 5676 Portland, OR 97228-5676
25	MGM 3930 B Cherry Avenue Long Beach, CA 90807	Renters America LLC GPO Box 10410 Newark, NJ 07103-0410	

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

1	Staples Credit Plan	Vision Service Plan
2	Dept. 51-7871661806	PO Box 45210
3	PO Box 639020	San Francisco, CA 94145-5210
4	Des Moines, IA 50368-9020	
5	Superior Sweeping	Wells Fargo Equipment Finance
6	10429 Salinas River Circle	300 Tri-State International
7	Fountain Valley, CA 92708	Suite 400
8		Lincolnshire, IL 60069
9	Tapia Olivia	White O'Connor Fink & Brenner
10	4277 La Salle Avenue	10100 Santa Monica Blvd
11	Culver City, CA 90232	Los Angeles, CA 90067
12	TEG/LVI Environmental Services	Matthew H. Kagan
13	13320 Cambridge Street	Thrifty Oil Co.
14	Santa Fe Springs, CA 90670	13116 Imperial Highway
15		Santa Fe Springs, CA 90670
16	Theodora Berger	Rafael Bernardino
17	Assistant Attorney General	Hobson+Davis LLP
18	300 South Spring Street	725 S Figueroa St. Ste 3230
19	Los Angeles, CA 90013-1230	Los Angeles, CA 90017
20	Thermo Electron Corporation	H. Henry Eshraghian
21	1400 NorthPoint PKWY, Ste 10	Expert Accounting & Tax Firm
22	West Palm Beach, FL 33407	112 W 9th St Ste 325
23	Time Warner Cable	Los Angeles, CA 90015
24	PO Box 60074	
25	City of Industry, CA 91716-0074	Seaport Group Profit Sharing
26	US Environmental Protection	Attn: Scott Friedberg
27	Russell Mechem	360 Madison Ave 22nd Fl
28	75 Hawthorne St	New York, NY 10017
29	San Francisco, CA 94105	
30	US Environmental.	
31	David Wood, Financial Managemt	
32	75 Hawthorne St	
33	San Francisco, CA 94105	
34	Verizon Business	
35	PO Box 371355	
36	Pittsburgh, PA 15250-7355	
37	Verizon California	
38	PO Box 920041	
39	Dallas, TX 75392-0041	
40	Verizon Wireless	
41	PO Box 660108	
42	Dallas, TX 75266-0108	

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Attorneys for Debtor and Debtor-in-Possession
LAKELAND DEVELOPMENT COMPANY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

LAKELAND DEVELOPMENT
COMPANY,

Debtor.

No. 2:12-bk-25842 RN

Chapter 11

NOTICE OF MOTION FOR ORDER
APPROVING SETTLEMENT
AGREEMENT WITH RB
INTERNATIONAL

[Hearing not scheduled – LBR 9013-1(o)(1)]

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that Debtor Lakeland Development Company ("Debtor" or "Lakeland") moves the Bankruptcy Court for an Order Approving the Compromise and Settlement between Lakeland Development Company ("Lakeland" or "Debtor"), Energy Merchant Corp. ("EMC"), Energy Merchant Holding, Inc. ("EM Holding"), Siegfried Hodapp ("Hodapp") and Vincent Papa ("Papa") collectively the "Lakeland Parties", on one hand,

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

and Paladin Global Alternative Energy Fund, L.P., Paladin III, L.P., Paladin III (NY City), L.P., Paladin III (Cayman Islands), L.P., Paladin III (CA), L.P., Paladin Biodiesel I, Inc., Paladin Biodiesel II, Inc., Paladin III (HR), L.P. and Paladin Institutional Co-Investment Fund, L.P. (collectively, the "Paladin Funds"); Renewable Energy Products, LLC ("REP") and REP-LA1, LLC ("LA1"), REP-LA2, LLC ("LA2"), collectively, the "REP Entities" (the Paladin Funds and the REP Entities are referred to collectively herein as "Paladin/REP"), on the other hand.

The Agreement contains the following material terms, among others:

1. Bankruptcy Court Approval.

The Agreement is not binding unless this settlement is approved by the bankruptcy Court.

2. Compromise of RB International's Claim and Payment by the Debtor

Concurrent with the closing of Debtor's sale of the 38 Acre Parcels to Goodman Santa Fe Springs SPE LLC ("Goodman"), and with the approval by the Court of the Settlement between the Lakeland Parties and the Paladin/REP Party (as term is defined below), the Debtor will pay the sum of \$577,000.00 to RB International. That payment will be made in consideration of (a) the release and withdrawal of RB International's secured claim in this bankruptcy in the amount of \$722,148.27 and (b) RB International's agreement to release the Lis Pendens on Lakeland's property, which in turn is a condition of closing the sale of 38 acres of the Debtor's real property ("the 38 Acre Parcels") to Goodman.

3. Releases

RB International (and all persons or entities claiming by, through or under RB International) waive their claim in this bankruptcy and fully and irrevocably release the

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

Debtor from all liability.

The Debtor and each persons or entities claiming by, through or under the Debtor waive their right to recover from and fully, and irrevocably release RB International.

Through escrow the Debtor will pay RB International the sum of \$577,000.00, in exchange for which RB International will release its claims against the Debtor and will release REP/Paladin from liability to repay certain loans. In exchange for that release, Paladin/REP will (among other things)¹ release REP-LA-1's *Lis Pendens* on the 38 Acre Parcels, which in turn will enable the Debtor's sale of the 38 Acre Parcels to close. The parties shall pay their own attorney's fees in connection with the negotiation and execution of the settlement agreement and any prior matter thereto. A true and correct copy of the Settlement Agreement is attached to the Declaration of Vincent Papa as Exhibit 1.

PLEASE TAKE FURTHER NOTICE that the Motion is based upon the Motion filed concurrently herewith, the Memorandum of Points and Authorities, the Declarations of Lawrence Jacobson and Vincent Papa attached thereto, and such other and further grounds as may be properly presented to the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Bankruptcy Rule 9013-1(o)(1), you are hereby advised that unless an objection along with a request for a hearing is properly filed and served within fourteen (14) days after the date of this Notice, a proposed order will be lodged by the Debtor approving the proposed Agreement, as more particularly described in the Motion. Any response or opposition to the Motion shall be stated in writing, filed with the Court, and served on the attorneys for the Debtor at the addresses set forth on the first page of this motion, on the United States Trustee at: 915 Wilshire Boulevard, Suite 1850, Los Angeles, California 90017 and on all creditors and

¹ The Debtor's settlement with paladin/REP is the subject of a separate motion approval filed concurrently with this motion. Each settlement is dependent upon the other.

other parties in interest who are entitled to notice. If you fail to file a written response within fourteen (14) days after the date of the service of this Notice, the Court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

DATED: April 9, 2014

LAW OFFICES OF RICHARD T. BAUM and
GLICKFELD, FIELDS & JACOBSON

/s/ Richard T. Baum

RICHARD T. BAUM, Attorneys for Debtor-in-
Possession LAKELAND DEVELOPMENT
COMPANY

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 11500 West Olympic Boulevard, Suite 400, Los Angeles, California 90064-1525. A true and correct copy of the foregoing document described as NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH RE INTERNATIONAL will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On April 9, 2014 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- Loric A Ball lbalk@peitzmanweg.com
- Richard T Baum rickbaum@hotmail.com, rickbaum@ecf.inforuptcy.com
- Joseph Corrigan Bankruptcy2@ironmountain.com
- Scott D Friedberg sfriedberg@theseaportgroup.com, sdfriedberg@gmail.com
- Bary S Glaser bglaser@swesq.com
- Matthew A Gold courts@argopartners.net
- Noah M Golden-Krasner noah.goldenkrasner@doj.ca.gov, gwen.blanchard@doj.ca.gov
- Lawrence M Jacobson lmj@gflawfirm.com
- Lance N Jurich ljurich@loeb.com, karnote@loeb.com;ladocket@loeb.com
- John G McCarthy jmccarthy@sgrlaw.com, nyoeef@sgrlaw.com
- Randy P Orlik rorlik@coxcastle.com
- Ronald E Ostrin ron@ostrinlaw.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
- Jeanne C Wanlass jwanlass@loeb.com, karnote@loeb.com;ladocket@loeb.com
- Howard J Weg hweg@peitzmanweg.com
- Christopher F Wilson cfw.cwanda@gmail.com, cindy.c.wilson@gmail.com
- Stephen Wong swong@specslaw.com
- Hatty K Yip hatty.yip@usdoj.gov

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On April 9, 2014, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed. ☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served):

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on April 9, 2014 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Judge Richard Neiter, bin outside courtroom 1645, 255 East Temple Street, Los Angeles, California 90012 (hand delivered by attorney service)

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

April 9, 2014 Richard T. Baum /s/ Richard T. Baum

Date	Type Name	Signature
January 2009		

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

F 9013-3.1

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

Served by US Mail:

Environmental Protection Agcy. 75 Hawthorne St San Francisco, CA 94105	Burleigh Brewer, Esq 4041 Mac arthur blvd Suite 350 Newport Beach, CA 92680	COSTCO/HSBS Business Solution PO Box 5219 Carol Stream, IL 60197-5219
12345 Lakeland LLC National Registered Agents Inc 160 Greentree Drive, Ste 101 Dover, DE 19904	CA Dept. of Health Services PO Box 997414 Sacramento, CA 95899-7414	County of Sanitation District 1955 Workman Mill Road Whittier, CA
12345 Lakeland, LLC 17901 Von Karman Suite 950 Irvine, CA 92614	South Cal. Operation C. Rudolph Dpt Toxic Control PO Box 806 Sacramento, CA 95812-0806	CT Corporation PO Box 449 Carol Stream, IL 60197-4349
AAVCO Electric 13746 Crewe Street Whittier, CA 90605	Chemtek Environmental Lab Inc. 13554 Larwin Circle Santa Fe Springs, CA 90670	Dept of Motor Vehicles PO Box 942894 Sacramento, CA 94294-0300
Aetna Health California PO Box 894920 Los Angeles, CA 90189-4920	City of SFS-Fire Department 11300 Greenstone Ave Santa Fe Springs, CA 90670	Dept. of Industrial Relations Division of Labor Standards 300 Oceanside, Ste 302 Long Beach, CA 90802-4339
American Express PO Box 0001 Los Angeles, CA 90096-0001	City of SFS-Fier Department 11300 Greenstone Ave Santa Fe Springs, CA 90670	Dion & Son, Inc. 1543 W. 16th Street Long Beach, CA 90813
American Specialty Health Dept. LA 23078 Pasadena, CA 91185-3078	City of SFS-Legal(Planning) 11710 E. Telegraph Road Santa Fe Springs, CA 90670	Environment & Natural Resource PO Box 7611 Washington, DC 20044-7611
Arrowhead A Division of Nestle Waters PO Box 856158 Louisville, KY 40285-6158	City of SFS-License 11710 E. Telegraph Road Santa Fe Springs, CA 90670-3658	Federal Express Corporation PO Box 7221 Pasadena, CA 91109-7321
Bingham McCutchen LLP PO Box 3486 Boston, MA 02110	City of SFS-Planning & Developmnt 11710 E. Telegraph Road Santa Fe Springs, CA 90670	Franchise Tax Board Attn: Bankruptcy PO Box 2952 Sacramento, CA 95812-2952
Blank Rome, Lockbox #8586 PO Box 8500 Philadelphia, PA 19178-8586	Conn, Robert 22503 Kent Avenue Torrance, CA 90505	Garcia Joseph J. PO Box 5311 Norco, CA 92860
Braverman & Co, P.C. 331 Madison Avenue New York, NY 10017	Consolidated Disposal Service PO Box 78829 Phoenix, AZ 85062-8010	Glickfeld Field & Jacobson LLP 9720 Wilshire Blvd, Suite 700 Beverly Hills, CA 90212
Brownstein Hyatt FarberSchreck Steven M. Sommers, Esq 410 Seventeenth St, Ste 2200 Denver, CO 80202-4432	Continental Building Inc. 13316 Mapledale Street Norwalk, CA 90650	Golden West Machine 9930 Jordan Circle Santa Fe Springs, CA 90670

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

1	Greenline Products 13249 E. Imperial Highway Whittier, CA 90605	Micronet Computer Consultants 12631 East Imperial Highway Building A Suite A 211 Santa Fe Springs, CA 90670	Ricoh Americas Corp. Lease PO Box 6434 Carol Stream, IL 60197-6434
2			
3	Home Depot Credit Services PO Box 6031 The Lakes, NV	Morse & Associates, Inc 977 Centerville Turnpike, SHB Virginia Beach, VA 23463	Ricoh Americas Corporation PO Box 4245 Carol Stream, IL 60197-4245
4			
5	International Risk Group 7991 Shaffer Parkway Suite 400 Littleton, CO 80127	Murex Environmental, Inc 2640 Walnut Avenue, Unit F Tustin, CA 92780	Ridgeline 7041 Greenway Parkway Ste 210 Scottsdale, AZ 85254
6			
7			
8	Iron Mountain PO Box 27128 New York, NY 10087-7128	Norwalk/La Mirada 11661 E. Firestone Blvd Norwalk, CA 90650	Robertson Charitable Remainder c/o Louis Isakoff, Esq 977 Centerville Trpk, SHB 202 Los Angeles, CA 90071
9			
10	Isola Law Group, LLP 405 West Pine street Lodi, CA 95240	PDQ Rental Center 10826 Shoemaker Santa Fe Springs, CA 90670	Sanitation District 1955 Workman Mill Road Whittier, CA 90601-1400
11			
12	Ken Spiker Jr/OC Office 605 Frankfort Ave Huntington Beach, CA 92648	Principal Financial Group PO Box 2000 Mason City, IA 50402-2000	Sato Edwin 4618 Opal Street Riverside, CA 92509
13			
14	Keystone Electric 1969 Freeman Ave Signal Hill, CA 90755	Pumping Solution Inc 1400 S Vineyard Ave Ontario, CA 91761	Seyfarth Shaw LLP Stacey N. Peak 333 S. Hope Street, Ste 3900 Los Angeles, CA 90071
15			
16	Loeb & Loeb LLP Albert M. Cohen Esq 10100 Santa Monica Bl #2200 Los Angeles, CA 90067	PVF Sales, Inc. 13707 Borate Street Santa Fe Springs, CA 90670-511	Sheppard Mullin 333 South Hope St 48th floor Los Angeles, CA 90071-1448
17			
18	Los Angeles County Tax Collect PO Box 54018 Los Angeles, CA 90054	R.B Paint & Body Center 10850 Norwalk Blvd Santa Fe Springs, CA 90670	South Coast A.Q.M.D PO Box 4943 Diamond Bar, CA 91765-0943
19			
20	M Industrial Mechanical, Inc PO Box 22624 Long Beach, CA 90801	Reg. Water Quality Control Roger Briggs 895 Aerovista Pl., Ste 101 San Luis Obispo, CA 93401	Southern Cal. Gas Co PO Box C Monterey Park, CA 91756
21			
22	Mechanical Seal Repair 3188 Orange Avenue Signal Hill, CA 90755	Reliable Equipment Rental Inc 8331 Common Buena Park Buena Park, CA 90621	Southern California Edison PO Box 600 Rosemead, CA 91771-001
23			
24	Metrohm USA 6555 Pelican Creek Circle Riverview, FL 33578	REP-LA 1, LLC, 2001 Pennsylvania Ave NW Suite 400 Washington, DC 20006	Standard Insurance Co. PO Box 5676 Portland, OR 97228-5676
25			
26	MGM 3930-B Cherry Avenue Long Beach, CA 90807	Reuters America LLC GPO Box 10410 Newark, NJ 07193-0410	
27			
28			

NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

- 7 -

1	Staples Credit Plan Dept.51-7871661806 PO Box 689020 Des Moines, IA 50368-9020	Vision Service Plan PO Box 45210 San Francisco, CA 94145-5210
2		
3	Superior Sweeping 10429 Salinas River Circle Fountain Valley, CA 92708	Wells Fargo Equipment Finance 300 Tri-State International Suite 400 Lincolnshire, IL 60069
4		
5	Tapia Olivia 4277 La Salle Avenue Culver City, CA 90232	White O'Connor Fink&Brenner 10100 Santa Monica Blvd Los Angeles, CA 90067
6		
7		
8	TEG/LVI Environmental Services 13320 Cambridge Street Santa Fe Springs, CA 90670	Matthew H. Kagan Thrifty Oil Co. 13116 Imperial Highway Santa Fe Springs, CA 90670
9		
10	Theodora Berger Assistant Attorney General 300 South Spring Street Los Angeles, CA 90013-1230	Rafael Bernardino Hobson+Davis LLP 725 S Figueroa St Ste 3230 Los Angeles, CA 90017
11		
12	Thermo Electron Corporation 1400 NorthPoint PKWY, Ste 10 West Palm Beach, FL 33407	H. Henry Eshraghian Expert Accounting & Tax Firm 112 W 9 th St Ste 325 Los Angeles, CA 90015
13		
14	Time Warner Cable PO Box 60074 City of Industry, CA 91716-0074	Seaport Group Profit Sharing Attn: Scott Friedberg 360 Madison Ave 22 nd Fl New York, NY 10017
15		
16	US Environmental Protection Russell Mechem 75 Hawthorne St San Francisco, CA 94105	
17		
18	US Environmental David Wood, Financial Managemt 75 Hawthorne St San Francisco, CA 94105	
19		
20	Verizon Business PO Box 371355 Pittsburgh, PA 15250-7355	
21		
22	Verizon California PO Box 920041 Dallas, TX 75392-0041	
23		
24	Verizon Wireless PO Box 660108 Dallas, TX 75266-0108	
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NOTICE OF MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT PALADIN AND REP PARTIES

- 8 -

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Attorneys for Debtor and Debtor-in-Possession
LAKELAND DEVELOPMENT COMPANY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

LAKELAND DEVELOPMENT
COMPANY,

Debtor.

No. 2:12-bk-25842 RN

Chapter 11

NOTICE OF MOTION AND MOTION
FOR ORDER APPROVING
SETTLEMENT AGREEMENT WITH
THE UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATIONS OF ALBERT
COHEN AND VINCENT PAPA

(Hearing Not Yet Scheduled - LBR
9013-1(o)(1))

TO ALL INTERESTED PARTIES:

NOTICE IS HEREBY GIVEN that Debtor and Debtor-in-Possession LAKELAND
DEVELOPMENT COMPANY, will, and hereby does, move the Court, pursuant to rule 9019

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

of the Federal Rules of Bankruptcy Procedure, for an Order Approving the Settlement
Agreement (the "Agreement") between debtor and debtor-in-possession LAKELAND
DEVELOPMENT COMPANY ("Lakeland" or "Debtor") and the UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY ("EPA").

The Agreement contains the following material terms, among others:

1. Bankruptcy Court Approval.

The Agreement is not binding unless this settlement is approved by the bankruptcy
Court.

2. Compromise of EPA Claim and Payment by the Debtor

The EPA contends that the Debtor owes \$6,969,000 under the provisions of a
Consent Decree entered in the United States District Court, which sum the EPA recognizes
is beyond the ability of the Debtor to pay. In compromise, the Debtor will pay the sum of
\$750,000 to the EPA within 30 days of the funding of the sale of the remainder of the
Debtor's real estate. The \$750,000 may be paid by any successor-in-interest, including
Ridgeline Energy Services, Inc., the buyer of the 17-acre parcels. (Ridgeline's agreement
with the Debtor provides that Ridgeline would receive credit against its purchase price for
the 17-acre parcels if it pays the EPA.)

3. Releases

The EPA agrees that upon payment of that \$750,000, all liability of the Debtor will
be satisfied and that it will deliver its acknowledgment of full satisfaction of judgment to the
United States District Court and will record its release of the abstract of judgment which
encumbers the Debtor's real property. A true and correct copy of the Agreement is
attached to the Declaration of Albert Cohen as Exhibit "2".

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

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The Agreement is in the best interest of the bankruptcy estate and its creditors, as
it resolves the claim of the EPA against the Debtor and provides for satisfaction of that
claim at a discount of approximately ninety percent (90%) from the amount claimed by the
EPA, satisfies a condition of closing the sale of the 17-acre parcels to Ridgeline and
enables the Debtor to sell the remaining 38 acres more easily.

PLEASE TAKE FURTHER NOTICE that the Motion is based upon the Notice of
Motion, filed concurrently herewith, the Motion, the attached Memorandum of Points and
Authorities, the Declarations of Albert Cohen and Vincent Papa, and such other and further
grounds as may be properly presented to the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Bankruptcy Rule 9013-
1(o)(1), you are hereby advised that unless an objection along with a request for a hearing
is properly filed and served within fourteen (14) days after the date of this Notice, a
proposed order will be lodged by the Debtor approving the proposed Agreement, as more
particularly described in the Motion. Any response or opposition to the Motion shall be
stated in writing, filed with the Court, and served on the attorneys for the Debtor at the
addresses set forth on the first page of this motion, on the United States Trustee at: 725
South Figueroa Street, Suite 2600, Los Angeles, California 90017 and on all creditors and
other parties in interest who are entitled to notice. If you fail to file a written response within
fourteen (14) days after the date of the service of this Notice, the Court may treat such
failure as a waiver of your right to oppose the Motion and may grant the requested relief.

DATED: November 19, 2012

LAW OFFICES OF RICHARD T. BAUM and
GLICKFELD, FIELDS & JACOBSON

/s/ Richard T. Baum

RICHARD T. BAUM, Attorneys for Debtor-in-
Possession LAKELAND DEVELOPMENT
COMPANY

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

As a result of the determination by the United States Environmental Protection
Agency ("EPA") that Debtor's predecessor-in-interest Powerline Oil Co. may be liable in
connection with the Waste Disposal, Inc. Superfund Site, the EPA brought an action in the
United States District Court, in which a Consent Decree was entered fixing the liability of
the Debtor and its related entities and setting forth a schedule of payments, along with
stipulated penalties for non-payment. The Debtor made most, but not all, payments
required under the Consent Decree, which led to the imposition of penalties and interest
pursuant to the terms of the Consent Decree. The EPA contends that as of June 12, 2012,
the balance owing under the Consent Decree was \$6,969,000.00. However, in order to
resolve the Debtor's liability thereunder and its doubtful ability to pay the full amount
claimed by the EPA, the Debtor and the EPA have agreed to settle and resolve the claim
upon payment of the Debtor of the sum of \$750,000.

The resolution of this disputed liability is one of the key conditions necessary for the
sale of the Debtor's real property. Ridgeline Energy Services, Inc. ("Ridgeline"), the
approved buyer of the 17-acre parcels of Debtor's land, will not close the sale portion of
the transaction until the agreement with the EPA is approved. Debtor believes that any
buyer of the remaining 38-acre parcels will demand the same. This closing of these sales
is central to the reorganization as it provides feasibility and a means of paying creditors.

II. STATEMENT OF FACTS

1. On May 4, 2012 (the "Petition Date"), Debtor filed a Voluntary petition under
Chapter 11 of Title 11 of the United States Code. The Debtor continues to operate its
business and manage its affairs as a debtor-in-possession, pursuant to 11 USC §§ 1107(a)

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

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and 1108.

2. The Debtor obtained orders permitting the payment of certain pre-petition employee claims and for use of cash collateral. Its professionals' employment has been approved, and it obtained approval of an insurance premium financing agreement. It obtained the approval of the Court for the assumption of a pre-petition Asset Purchase Agreement whereby it sold its waste water reclamation facility to Ridgeline Energy Services, Inc. ("Ridgeline") entered into a lease with an option to purchase 17-acre parcels of its real property, and seeks to close the sale of that real estate to Ridgeline. The Debtor is actively negotiating for the sale of the remaining portion of its property which comprises approximately 38 acres.

3. On August 3, 2004, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency filed a complaint in United States of America et al. v. Powerline Oil Company et al., CV04-6435 CMB (JWJx), Central District of California (the "District Court Case") pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607, seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Waste Disposal, Inc. Superfund Site in Santa Fe Springs, California ("the WDI Site") from the Debtor (f/k/a Cenco Refining Company), Powerline Oil Company ("Powerline") and Energy Merchant Corp. ("EMC"). (Powerline, Lakeland and EMC are collectively referred to herein as the "Lakeland Related Entities").

4. Powerline and Lakeland are subject to a Cleanup and Abatement Order (Order No. 97-118) issued by the Los Angeles Regional Water Quality Control Board ("Water

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA
- 5 -

satisfied in full by payment of \$750,000 (approximately 10% of the full amount claimed owing by the EPA) within 30 days after sale of the 38-acre parcels of the Debtor's real property, which payment can be made by the Debtor, Ridgeline or any other successor-in-interest with respect to any portion of the Debtor's real property.

8. On September 20, 2012, the Court approved the Debtor's Assumption of the Asset Purchase Agreement with Ridgeline. That agreement provided that the Debtor would lease the 17-acre parcels to Ridgeline, and would grant Ridgeline an Option to Purchase the property. Ridgeline exercised its option, and Ridgeline and the Debtor are working to close the sale transaction. Ridgeline demanded that the sale not close until the EPA agreement is approved by the court so that Ridgeline is certain that the EPA's lien on the property can be satisfied by a payment of \$750,000 (for which Ridgeline will receive credit against the purchase price) rather than the sum of almost \$7,000,000 that the EPA contends is owing under the Consent Decree.

9. The Debtor is working to effect the sale of the remaining 38-acre parcels and believes that the buyer in any such sale will require that the EPA abstract of judgment lien be paid at closing. The agreement herein facilitates those requirements.

III. THE AGREEMENT IS IN THE BEST INTEREST OF THE DEBTOR'S ESTATE AND ITS UNSECURED CREDITORS AND, THEREFORE, SHOULD BE APPROVED

1. Standards for Approval of Compromises of Claims.

Federal Rule of Bankruptcy Procedure 9019(a) provides that on the trustee's motion and after a hearing on notice to creditors, the debtor and indenture trustees, as provided in Rule 2002(a), and such other entities as the Court may designate, the Court may approve a compromise or settlement.

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA
- 7 -

Board"), and a state court injunction, obtained by the Community Development Commission of the City of Santa Fe Springs, and entered April 14, 2004 (Case No. VC 03890, Los Angeles County Superior Court), requiring remediation of their former oil refinery property located at 12345 Lakeland Road, Santa Fe Springs, California.

5. On October 14, 1998, EPA sent Powerline a notice letter indicating that Powerline was liable as a *de minimis* party at the Casmalia Resources Superfund Site ("the Casmalia Site"), located in Casmalia, California.

6. On February 11, 2008, the Lakeland Related Entities and the United States entered into a Consent Decree (the "Consent Decree") to resolve the District Court Case pursuant to which the Lakeland Related Entities agreed to pay the United States as follows in order to resolve the claims brought against the Lakeland Related Entities in the District Court Case and the other claims identified above (See United States of America et al. v. Powerline Oil Company et al., CV04-6435 CMB (JWJx) (USDC C.D. Cal.), Docket No. 104 ("Consent Decree"), at Section V). The Consent Decree required the Debtor and other Lakeland entities to pay the sum of \$1,450,000 according to a set schedule of payments. Failure to make payment caused the imposition of penalties in the amount of \$5,000 per day. The Debtor was unable to make the final payment under the Consent Decree, though it remained in contact with the EPA to attempt to resolve the liability, the penalties and interest, and other questions including deals for the future development of the land. The EPA obtained and recorded an abstract of judgment in the amount of \$1,450,000 which created a lien against the Debtor's property. The EPA contends that as of June 12, 2012, the balance owing, including interest and stipulated penalties, was \$6,969,000.00.

7. As discussed above, the Debtor and the EPA have entered into the Agreement (subject to this court's approval), which provides that the EPA's claim and lien can be

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA
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The Supreme Court in Protective Committee for Independent Stock Holders of TNT Trailer Fairy, Inc. v. Anderson, 390 US 414, 425 (1968), held that a bankruptcy court, in considering whether to approve a compromise, should apprise itself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated. It also explained that the court should form an educated estimate of the complexity, expense and likely duration of such litigation, the possibility of collection on any judgement that might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. See also In re A&C Properties, 784 F.2d 1377, 1380-84 (9th Cir. 1986), cert. denied, 479 S.Ct. 854 (1986). The Court need not, however, conduct an exhaustive investigation into the validity of the claims to be compromised nor is the Court expected to conduct a mini-trial on the merits. In re Walsh Construction, Inc., 669 F.2d 1325, 1328 (9th Cir. 1982).

The purpose of any compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. In re Walsh Construction, Inc., 669 F.2d 1325, 1328 (9th Cir. 1982) (citing In re California Associated Products, 183 F.2d 946, 949-50 (9th Cir. 1950)). The law favors compromise and not litigation for its own sake. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976).

Consistent with these Bankruptcy Act cases, the Ninth Circuit in In re A&C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986) reiterated that in determining the fairness, reasonableness and adequacy of a proposed settlement agreement, a court should consider: (1) the probability of success in litigation, (2) the difficulties, if any, to be encountered in the matter of collection, (3) the complexity of the litigation involved and the expense, inconvenience and delay necessarily attending it, and (4) the paramount interest of the creditors and the proper deference to their reasonable views. Consideration of these factors does not require the Court to decide questions of law and fact in the parties' dispute, or to determine that the settlement is the best possible resolution; instead the Court needs only determine whether the settlement falls below the lowest point of the

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1 range of reasonableness. In re Schmitt, 215 BR 417, 423 (Bankr 9th Cir. 1997).

2
3 **2. The Agreement Should Be Approved Under Bankruptcy Rule 9019**

4 Applying the above standards to the circumstances herein, the Agreement should
5 be approved.

6 **a) The Probability of Success in Litigation**

7 The question presented is whether penalties for non-payment contained in a
8 judicially endorsed decree which the parties voluntarily entered into are enforceable. While
9 the law generally abhors penalties, statutory provisions permit such terms in a decree
10 issued by the District Court. A compromise based upon the debtor's somewhat limited
11 prospects of prevailing make a settlement in an amount barely more than 10% of the full
12 amount claimed by the EPA tenable and desirable.

13 **b) The Probability of Collection**

14 Since the Debtor is a defendant in the underlying litigation, the prospect of collection
15 is based more upon the Debtor's ability to pay. The Debtor will pay when the 38-acre
16 parcels are sold, and in return EPA's lien against the property will be released.

17 **c) The Agreement Avoid the Need for Expensive, Inconvenient and**
18 **Protracted Litigation**

19 The Settlement Agreement avoids litigation regarding the enforceability of the
20 penalty provisions of the Consent Decree. While the costs of litigation may not be high,
21 litigation delays the closing of the Ridgeline sale and impairs selling the remaining 38 acre
22 parcels.

23 **d) The Agreement Benefits The Paramount Interests of Creditors**

24 If this agreement is approved, the Debtor will satisfy one of the conditions for the
25 closing of the Ridgeline transaction, and certainly any sale of the remaining 38-acre
26 parcels. The abstract of judgment held by the EPA will be satisfied and released upon
27 payment of the specific sum of \$750,000. The sales of the property parcels provide the
28

1 funds to satisfy all secured creditors, including the property taxes. The Ridgeline
2 transaction provides that Ridgeline will fund the remediation of the toxic contamination of
3 the land, and the Debtor anticipates that the terms of the sale of the 38-acres will provide
4 the same. The settlement does not provide the EPA with a greater benefit that it deserves
5 at the expense of other creditors nor does it impose additional burdens upon the estate.
6 To the contrary, it eases burdens upon the estate and moves it closer to consummation
7 of its reorganization.

3. CONCLUSION

10 For the foregoing reasons, the Court is asked to approve the proposed Agreement.
11 Debtor further requests such further relief as the Court deems just and proper.

13 DATED: November 19, 2012 LAW OFFICES OF RICHARD T. BAUM and
14 GLICKFELD, FIELDS & JACOBSON

16 /s/ Richard T. Baum

17 RICHARD T. BAUM, Attorneys for Debtor-in-
18 Possession LAKELAND DEVELOPMENT
19 COMPANY

1 entered into a Consent Decree (the "Consent Decree") to resolve the District Court Case
2 pursuant to which the Lakeland Related Entities agreed to pay the United States in order
3 to resolve the claims brought against the Lakeland Related Entities in the District Court
4 Case. A true copy of the Consent Decree is attached hereto as Exhibit 1. It requires that
5 the Lakeland Related Entities pay the EPA \$1,450,000 plus interest pursuant to the
6 following schedule:

7 a. Within ninety days of entry of the Consent Decree, the
8 Lakeland Related Entities were required to pay \$806,606.00 to be deposited
9 in the WDI Special Account within the EPA Hazardous Substance Superfund
10 to be retained and used to conduct or finance response actions at or in
11 connection with the WDI Site, or to be transferred by EPA to the EPA
12 Hazardous Substance Superfund;

13 b. Within ninety days of entry of the Consent Decree the Lakeland
14 Related Entities were required to pay \$100,000.00 to be deposited in the OII
15 Special Account within the EPA Hazardous Substance Superfund to be
16 retained and used to conduct or finance response actions at or in connection
17 with the OII Site, or to be transferred by EPA to the EPA Hazardous
18 Substance Superfund;

19 c. Within ninety days of entry of the Consent Decree the Lakeland
20 Related Entities were required to pay \$93,394.00 to be deposited in the
21 Casmalia Site Escrow Account;

22 d. Within 150 days of entry of the Consent Decree the Lakeland
23 Related Entities were required to pay \$225,000.00, plus interest from the
24 date of entry, to be deposited in the WDI Special Account within the EPA
25 Hazardous Substance Superfund to be retained and used to conduct or
26 finance response actions at or in connection with the WDI Site, or to be
27 transferred by EPA to the EPA Hazardous Substance Superfund; and

DECLARATION OF ALBERT COHEN

3 I, ALBERT COHEN, declare:

5 1. I am an attorney duly licensed to practice law in the State of California. I am
6 counsel to Debtor LAKELAND DEVELOPMENT COMPANY, formerly known as Cenco
7 Refining Company, and its affiliates Powerline Oil Company and Energy Merchant
8 Corporation ("Lakeland Related Entities"). I represented these parties in connection the
9 legal proceedings brought by the United States of America on behalf of the Administrator
10 of the United States Environmental Protection Agency against them in connection with
11 collection efforts related to a Superfund Site in Santa Fe Springs, California and other
12 Superfund Sites. I have personal knowledge of the facts set forth in this Declaration and
13 it called as a witness I could testify competently thereto.

14 2. On August 3, 2004, the United States of America ("United States"), on behalf of
15 the Administrator of the United States Environmental Protection Agency ("EPA"), filed a
16 complaint in United States of America et al. v. Powerline Oil Company et al., CV04-6435
17 CMB (JWJx), Central District of California (the "District Court Case") pursuant to Section
18 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of
19 1980, as amended ("CERCLA"), 42 U.S.C. § 9607, seeking reimbursement of response
20 costs incurred or to be incurred for response actions taken at or in connection with the
21 release or threatened release of hazardous substances at the Waste Disposal, Inc.
22 Superfund Site in Santa Fe Springs, California ("the WDI Site"). The Lakeland Related
23 Entities answered, and, during the course of litigation, submitted Financial Information to
24 the United States. The United States reviewed the Financial Information and determined
25 that the Lakeland Related Entities were only able to pay limited amounts to resolve the
26 outstanding disputes with the United States.

27 3. On February 11, 2008, the Lakeland Related Entities and the United States

1 e. Within 210 days of entry of the Consent Decree the Lakeland
2 Related Entities were required to pay \$225,000.00, plus interest from the
3 date of entry, which shall be deposited in the WDI Special Account within the
4 EPA Hazardous Substance Superfund to be retained and used to conduct
5 or finance response actions at or in connection with the WDI Site, or to be
6 transferred by EPA to the EPA Hazardous Substance Superfund.

7 4. The Consent Decree provided that if the Lakeland Related Entities did not timely
8 make the required payments, they would be subject to interest at the EPA Hazardous
9 Substance Superfund rate, and stipulated penalties of \$5,000 per day.

10 5. After expiration of a public notice period the Court entered the Consent
11 Decree and signed it as a Final Judgment on February 11, 2008. (See Consent Decree,
12 Docket No. 104 at Para. 60).

13 6. The Lakeland Related Entities made the initial three payments. However, in
14 August 2008, the Lakeland Related Entities informed EPA that because of financial
15 difficulties they were unable to make the fourth payment in a timely fashion. The Lakeland
16 Related Entities made the fourth payment, including interest, on October 20, 2008. The
17 payment did not include Stipulated Penalties due under the Consent Decree.

18 7. The Lakeland Related Entities informed EPA that because of financial difficulties
19 they were not able to make the final \$225,000 payment. Since that time the parties have
20 been involved in discussions regarding the final payment, interest, and stipulated penalties.

21 8. On about November 6, 2008, the United States obtained an Abstract of
22 Judgment against the Lakeland Related Entities from the United States District Court in an
23 amount of \$1,450,000.00 plus interest. The Abstract of Judgment was recorded in the Los
24 Angeles County Registrar's Office on December 16, 2008 and imposed a lien on the all of
25 the Lakeland Related Entities property located in Los Angeles County, including the
26 property at 12345 Lakeland Road, Santa Fe Springs.

27 9. Since that time, the Lakeland Related Entities and EPA have been in discussions

1 regarding how to resolve their dispute regarding the debt owed to the United States,
2 including accrued interest and stipulated penalties. Because the Lakeland Related Entities
3 claimed that they did not have sufficient funds, those discussions focused on Lakeland
4 entering a development deal for the Refinery Property with the proceeds being used to (a)
5 satisfy the various liens against the Refinery Property, including the EPA Lien and (b) clean
6 up the Property.

7 10. As of June 11, 2012, interest of \$19,386.29 had accrued on the unpaid balance
8 as well as Stipulated penalties, owed pursuant to Section VII of the Consent Decree, in the
9 amount of \$ 6,965,000. The debtor is jointly and severally liable for the unpaid amounts
10 along with the other Lakeland Related Entities.

11 11. After considerable discussions, the Debtor and the United States fulfilled their
12 collective wish to resolve their differences with respect to the liability owed by the Debtor
13 and other Lakeland Related Entities, including the liability of the Debtor pursuant to a Proof
14 of Claim that the United States intends to file and the Abstract of Judgment recorded in the
15 records of Los Angeles County. To that end, the Parties agreed that the treatment of
16 liabilities provided for in the Settlement Agreement represents a compromise of the
17 contested positions of the Parties that is entered into solely for purposes of this settlement,
18 and the Parties reserve their legal arguments as to any issues involved in other matters.

19 12. The United States and the Lakeland Related Entities entered into a written
20 Settlement Agreement, a true copy of which is attached as Exhibit 2, wherein they agreed,
21 and this Court by entering this Settlement Agreement finds, that the Settlement Agreement
22 has been negotiated by the Parties in good faith, that settlement of this matter will avoid
23 prolonged and complicated litigation between the Parties, and that this Agreed Order is fair,
24 reasonable, and in the public interest.

25 13. Pursuant to that settlement agreement, the Debtor will pay a total of \$750,000
26 of which \$250,000 constitutes the final payment due in connection with the liability in
27 connection with the Waste Disposal, Inc. Superfund Site, and of which \$500,000
28

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1 constitutes stipulated penalties. (§ V. 35.) This payment is due in full in cash within thirty
2 days of the closing of the court approved sale of the 38 acre parcels (§ V. 36.) Within thirty
3 days of payment of the full settlement amount, the United States will file an
4 acknowledgment of full satisfaction of judgment with the United States District Court and
5 will file a release of its Abstract of Judgment in the Los Angeles County Registrar
6 Records Office (§ V. 38.). The Debtor is obligated to seek approval of the settlement by
7 the Bankruptcy Court (§ VI. 42.), and failure to so obtain that approval causes the
8 settlement to become null and void. (§ VI. 45.)

9 14. It is my belief that a court will find that the Debtor has liability under the Consent
10 Decree, and that there is a substantial chance that the liability will be in excess of
11 \$6,969,000. Settlement of \$750,000 — a discount of approximately 90% — is a fair and
12 just compromise of that potential liability.

13
14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct. Executed this 20th day of November 2012, at Los Angeles,
16 California.

17
18 
19 ALBERT COHEN

20
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28
NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA
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DECLARATION OF VINCENT PAPA

1
2
3 I, VINCENT PAPA, declare:

4
5 1. I am the Secretary and General Counsel of the Debtor which is a Delaware
6 corporation. Along with Michael Egner, I am responsible for the management of the Debtor
7 in this Bankruptcy case. I am also the Senior Vice-President of Energy Merchant
8 Corporation, the Debtor's ultimate parent corporation. I have personal knowledge of the
9 facts set forth in this Declaration, and if called as a witness I could testify competently
10 thereto.

11
12 2. On September 20, 2012, the Court approved the Debtor's Assumption of the
13 Asset Purchase Agreement with Ridgeline Energy Services, Inc. That agreement provided
14 that the Debtor would lease the 17-acre parcels to Ridgeline, and would grant Ridgeline
15 an Option to Purchase the property. Ridgeline exercised its option, and Ridgeline and the
16 Debtor are working to close the sale transaction. Ridgeline demanded that the sale not
17 close until the EPA agreement is approved by the court so that it will be acquire a piece of
18 real property encumbered by a \$7-million lien; rather, it will acquire one with a \$750,000
19 lien which it has the right to pay, and for which credit in its transaction with the Debtor has
20 been arranged.

21
22 3. The Debtor is working to effect the sale of the remaining 38-acre parcels and
23 believes that the buyer in any such sale will require that the EPA abstract of judgment lien
24 be paid at closing. The agreement herein facilitates those demands.

25
26 4. Based on negotiations with potential purchasers of the 38-acre parcels, the
27 Debtor anticipates that, when those parcels are sold, all secured claims against the
28

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1 property will be paid, including all property taxes, and the toxins on the property would be
2 remediated by the buyers. There would either be value in place to fund the remediation
3 or the buyers would have sufficient financial resources that a sequestration of remediation
4 funds is not required.

5
6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct. Executed this 20th day of November 2012 at New
8 York, New York.

9
10 
11 VINCENT PAPA

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EXHIBIT 1

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2 Acting Assistant Attorney General
3 Environment & Natural Resources Division
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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION

18 UNITED STATES OF AMERICA,
19 THE CALIFORNIA DEPARTMENT
20 OF TOXIC SUBSTANCES
21 CONTROL, DEPARTMENT OF
22 FISH AND GAME, AND CENTRAL
23 COAST REGIONAL WATER
24 QUALITY CONTROL BOARD,

Civil No: CV04-6435 CBM (JWJx)

CONSENT DECREE

Plaintiffs,

v.

25 POWERINE OIL COMPANY,
26 CENCO REFINING COMPANY,
27 and ENERGY MERCHANT CORP.,

Defendants.

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I. BACKGROUND

A. On August 3, 2004, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607, seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Waste Disposal, Inc. Superfund Site in Santa Fe Springs, California ("the WDI Site") from Powerine Oil Company ("Powerine"), CENCO Refining Company ("CENCO"), and Energy Merchant Corp. ("EMC"). The United States also alleged in the complaint that there was a fraudulent conveyance between Powerine and EMC, pursuant to the Federal Debt Collection Procedures Act ("FDCPA"), 28 U.S.C. §§ 3001-3308, and that Powerine and EMC had failed to respond to information requests in a complete and timely manner, as required by Section 104(e) of CERCLA, 42 U.S.C. § 9604(e).

B. EPA's selection of a remedy to address the contamination at the WDI Site is documented in a final Amended Record of Decision, executed on June 21, 2002. The work required to implement that remedy ("WDI Remedial Action") was carried out by a group of potentially responsible parties referred to as the Waste Disposal Inc. Group ("WDIG") that did not include Powerine, CENCO or EMC. EPA certified that the WDI Remedial Action was complete at the WDI Site on September 14, 2006.

C. Separately, on September 28, 1990, the United States sent Powerine a Special Notice letter for the Operating Industries, Inc. Superfund Site ("the OII Site"), located at 900 Potrero Grande Drive, Monterey Park, California, alleging that Powerine was a Potentially Responsible Party ("PRP") at the OII Site.

EXHIBIT 1

EXHIBIT 1

1 D. Powerine and CENCO Refining are subject to a Cleanup and Abatement
2 Order (Order No. 97-118) issued by the Los Angeles Regional Water Quality
3 Control Board, and a state court injunction, obtained by the Community
4 Development Commission of the City of Santa Fe Springs, and entered April 14,
5 2004 (Case No. VC 03890, Los Angeles County Superior Court), requiring
6 remediation of their former oil refinery property, located at 1234 Lakeland Road,
7 Santa Fe Springs, California.

8 E. On October 14, 1998, EPA sent Powerine a notice letter indicating that
9 Powerine was liable as a *de minimis* party at the Casmalia Resources Superfund
10 Site ("the Casmalia Site"), located at NTU Rd-539 San Ysidro Blvd., Casmalia,
11 California.

12 F. As a result of the release or threatened release of hazardous substances at
13 or near the WDI Site, the State of California Department of Toxic Substances
14 Control ("DTSC") has undertaken response actions at or in connection with the
15 WDI Site pursuant to state and federal law, and will undertake response actions in
16 the future. DTSC is a support agency to EPA with respect to the WDI Site.

17 G. As a result of the release or threatened release of hazardous substances
18 at or near the Casmalia Site, DTSC, the Regional Water Quality Control Board for
19 the Central Coast Region (the "Regional Board"), and the Department of Fish and
20 Game ("DFG") have undertaken response actions at or in connection with the
21 Casmalia Site pursuant to state and federal law, and will undertake response
22 actions in the future. DTSC, the Regional Board and DFG are support agencies to
23 EPA with respect to the Casmalia Site.

24 H. Information currently known to DFG indicates the presence of one or
25 more state natural resources at or near the Casmalia Site which may have been, or
26 which may be, injured by release(s) of hazardous substances. DFG is the state
27 agency authorized to act on behalf of the public as a trustee for the natural
28 resources within California. DFG has claimed Natural Resource Damages at the

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EXHIBIT 1

1 Casmalia Site, including response costs incurred by the DFG prior to October 1,
2 1999.

3 I. As a result of the release or threatened release of hazardous substances at
4 or near the Oil Site, DTSC has undertaken response actions at or in connection
5 with the Oil Site pursuant to state and federal law, and will undertake response
6 actions in the future.

7 J. DTSC, DFG, and the Regional Board (collectively the "State Plaintiffs")
8 have concurrently filed a complaint against the Powerine, CENCO and EMC
9 (collectively referred to as "Settling Defendants") alleging that the Settling
10 Defendants are liable to the State Plaintiffs under Section 107(a) of CERCLA, 42
11 U.S.C. § 9607(a), for response costs incurred or to be incurred by the State
12 Plaintiffs at the WDI Site, Oil Site, and the Casmalia Site, and for Natural
13 Resource Damages at the Casmalia Site. DFG has also asserted a claim for
14 Natural Resource Damages with respect to the Casmalia Site under 42 U.S.C.
15 section 107(f), 42 U.S.C. § 9607(f).

16 K. Settling Defendants submitted Financial Information to the United
17 States and gave permission for the United States to share the Financial Information
18 with the State Plaintiffs. The United States and the State Plaintiffs have reviewed
19 the Financial Information to determine whether Settling Defendants are financially
20 able to pay response costs incurred and to be incurred at the WDI, Oil, and
21 Casmalia Sites. Based upon this Financial Information, the United States has
22 determined that Settling Defendants are able to pay the amounts specified in
23 Section V. The State Plaintiffs have determined that Settling Defendants are able
24 to pay the amounts specified in Section VI.

25 L. Settling Defendants that have entered into this Consent Decree do not
26 admit any liability to the United States arising out of the transactions or
27 occurrences alleged in the complaint, or described in the special notice letters
28 regarding the Oil and Casmalia Sites.

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EXHIBIT 1

1 M. The United States, State Plaintiffs, and Settling Defendants agree, and
2 this Court by entering this Consent Decree finds, that this Consent Decree has
3 been negotiated by the Parties in good faith, that settlement of this matter will
4 avoid prolonged and complicated litigation between the Parties, and that this
5 Consent Decree is fair, reasonable, and in the public interest.

6 THEREFORE, with the consent of the Parties to this Decree, it is
7 ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION

8
9 1. This Court has jurisdiction over the subject matter of this action
10 pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607 and 9613(b)
11 and also has personal jurisdiction over Settling Defendants. Solely for the
12 purposes of this Consent Decree and the underlying complaint, Settling
13 Defendants waive all objections and defenses that they may have to jurisdiction of
14 the Court or to venue in this District. Settling Defendants shall not challenge the
15 terms of this Consent Decree or this Court's jurisdiction to enter and enforce this
16 Consent Decree.

III. PARTIES BOUND

17
18 2. This Consent Decree is binding upon the United States, the State
19 Plaintiffs, and upon Settling Defendants and their successors and assigns. Any
20 change in ownership or corporate or other legal status, including but not limited
21 to, any transfer of assets or real or personal property, shall in no way alter the
22 status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

23
24 3. Unless otherwise expressly provided herein, terms used in this Consent
25 Decree that are defined in CERCLA or in regulations promulgated under
26 CERCLA shall have the meanings assigned to them in CERCLA or in such
27 regulations. Whenever terms listed below are used in this Consent Decree or in
28 any appendix attached hereto, the following definitions shall apply:

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EXHIBIT 1

1 a. "Casmalia Site" shall mean the former Casmalia Resources
2 Hazardous Waste Management Facility, encompassing approximately 252 acres,
3 located at NTU Rd-539 San Ysidro Blvd., approximately ten (10) miles southwest
4 of Santa Maria and one and a half miles north of Casmalia in Santa Barbara
5 County, California, and depicted generally on the map attached at Appendix C.
6 Casmalia Site shall also include the areal extent of contamination that is presently
7 located in the vicinity of the Casmalia facility and all suitable areas in very close
8 proximity to the contamination necessary for the implementation of the response
9 action(s) and any areas to which such contamination migrates.

10 b. "Casmalia Site Escrow Account" shall mean the escrow account
11 for the Casmalia Site, which was established pursuant to the Consent Decree
12 entered by the United States District Court for the Central District of California on
13 June 27, 1997, in *United States of America v. ABB Vetco Gray Inc., et al.*, Civ. No.
14 CV 96-6518-KMW (JGx). The Casmalia Site Escrow Account holds money
15 collected, inter alia, from settlements and enforcement activities undertaken by
16 EPA related to the Casmalia Site, and which shall be used for response actions at
17 and concerning the Casmalia Site.

18 c. "CERCLA" shall mean the Comprehensive Environmental
19 Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C.
20 § 9601, *et seq.*

21 d. "Consent Decree" shall mean this Consent Decree and all
22 appendices attached hereto. In the event of conflict between this Consent Decree
23 and any appendix, the Consent Decree shall control.

24 e. "Day" shall mean a calendar day. In computing any period of time
25 under this Consent Decree, where the last day would fall on a Saturday, Sunday, or
26 federal holiday, the period shall run until the close of business of the next working
27 day.

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EXHIBIT 1

1 g. "DFG" shall mean the California Department of Fish and Game
2 and any successor entity.

3 h. "DTSC" shall mean the California Department of Toxic Substances
4 Control and any successor entity.

5 i. "DOJ" shall mean the United States Department of Justice and any
6 successor departments, agencies or instrumentalities of the United States.

7 j. "EPA" shall mean the United States Environmental Protection
8 Agency and any successor departments, agencies or instrumentalities of the United
9 States.

10 k. "EPA Hazardous Substance Superfund" shall mean the Hazardous
11 Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

12 l. "EPA Past Response Costs" shall mean all costs, including but not
13 limited to direct and indirect costs, that EPA, or DOJ on behalf of EPA, has paid at
14 or in connection with the WDI Site, the OII Site, or the Casmalia Site through the
15 date of entry of this Consent Decree, plus accrued interest on all such costs
16 through such date.

17 m. "Financial Information" shall mean those financial documents
18 identified in Appendix D.

19 n. "Interest" shall mean interest at the rate specified for interest on
20 investments of the EPA Hazardous Substance Superfund established by 26 U.S.C.
21 § 9507, compounded annually on October 1 of each year, in accordance with 42
22 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the
23 time the interest accrues. The rate of interest is subject to change on October 1 of
24 each year.

25 o. "Natural Resource Damages" or "NRD" means damages, including
26 costs of damages assessment, recoverable under section 107 of CERCLA, 42
27 U.S.C. section 9607, and applicable provisions of State law, for injury to,
28 destruction of, or loss of any and all natural resources at the Casmalia Site.

1 p. "OII Site" shall mean the Operating Industries Inc. Superfund Site,
2 located at 900 Potrero Grande Drive, in the City of Monterey Park, Los Angeles
3 County, California, generally shown on the map included in Appendix B.

4 q. "OII Special Account" shall mean the special account established at the
5 OII Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C.
6 §9622(b)(3), within the EPA Hazardous Substance Superfund.

7 r. "Paragraph" shall mean a portion of this Consent Decree identified
8 by an Arabic numeral or an upper or lower case letter.

9 s. "Parties" shall mean the United States, State Plaintiffs, and Settling
10 Defendants.

11 t. "Plaintiffs" shall mean the United States and the State Plaintiffs.

12 u. "Regional Board" shall mean the California Regional Water
13 Quality Control Board for the Central Coast Region, and any successor entity.

14 v. "Section" shall mean a portion of this Consent Decree identified
15 by a Roman numeral.

16 w. "Settling Defendants" shall mean Powerline Oil Company
17 ("Powerline"), CENCO Refining Company (n/k/a/ Lakeland Development
18 Company ("CENCO")), and Energy Merchant Corp. ("EMC").

19 x. "State Natural Resource Damages Claim" shall mean the claim for
20 Natural Resources Damages asserted by DFG and the amount of Natural Resource
21 Damages for the Casmalia Site that DFG has estimated as its current or future
22 claim for the purposes of this Consent Decree only. That current claim is sixteen
23 million dollars (\$ 16,000,000).

24 y. "State Plaintiffs" shall mean DTSC, DFG, and the Regional
25 Board.

26 z. "State Plaintiffs' Response Costs" shall mean all costs, including
27 but not limited to direct and indirect costs, that any of the State Plaintiffs has
28

1 incurred or will incur at or in connection with the WDI Site, the OII Site, or the
2 Casmalia Site, plus accrued interest on all such costs.

3 aa. "State Statutes" shall mean the California Health and Safety
4 Code, sections 25300 et seq., and 25189.1; the Porter-Cologne Water Quality
5 Control Act, California Water Code sections 13000 et seq.; the California Fish and
6 Game Code, sections 5650, 5650.1, 2014, 711.7 and 12016; the California
7 Government Code, sections 8670.56.5 and 8670.61.5; and state nuisance and
8 trespass laws.

9 bb. "Waste Material" shall mean (1) any "hazardous substance"
10 under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any "pollutant or
11 contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any
12 "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4)
13 any "hazardous substance" under California Health and Safety Code §§ 25316 and
14 25317.

15 cc. "WDI Remedial Action" shall mean those activities, except for
16 operation and maintenance, to be undertaken by the WDIIG to implement the
17 Amended Record of Decision at the WDI Site, in accordance with the Statement of
18 Work and the final Remedial Design and Remedial Action Work Plans and other
19 plans approved by EPA.

20 dd. "WDI Site" shall mean the Waste Disposal, Inc. Superfund Site,
21 encompassing approximately 38 acres, located at 12731 E. Los Nietos Rd., in
22 Santa Fe Springs, Los Angeles County, California, and generally shown on the
23 map included in Appendix A.

24 ee. "WDI Special Account" shall mean the special account
25 established at the WDI Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42
26 U.S.C. §9622(b)(3), within the EPA Hazardous Substance Superfund.

27 ff. "United States" shall mean the United States of America,
28 including its departments, agencies and instrumentalities.

1 **V. PAYMENT OF EPA RESPONSE COSTS**

2 4. Payment of EPA Past Response Costs. Settling Defendants shall pay
3 \$1,450,000, plus interest, pursuant to the following schedule:

4 a. Within ninety days of entry of this Consent Decree, Settling
5 Defendants shall pay \$806,606.00 which shall be deposited in the WDI Special
6 Account within the EPA Hazardous Substance Superfund to be retained and used
7 to conduct or finance response actions at or in connection with the WDI Site, or to
8 be transferred by EPA to the EPA Hazardous Substance Superfund;

9 b. Within ninety days of entry of this Consent Decree Settling
10 Defendants shall pay \$100,000.00 which shall be deposited in the OII Special
11 Account within the EPA Hazardous Substance Superfund to be retained and used
12 to conduct or finance response actions at or in connection with the OII Site, or to
13 be transferred by EPA to the EPA Hazardous Substance Superfund;

14 c. Within ninety days of entry of this Consent Decree Settling
15 Defendants shall pay \$93,394.00 which shall be deposited in the Casmalia Site
16 Escrow Account;

17 d. Within 150 days of entry of this Consent Decree Settling
18 Defendants shall pay \$225,000.00, plus interest from the date of entry, which shall
19 be deposited in the WDI Special Account within the EPA Hazardous Substance
20 Superfund to be retained and used to conduct or finance response actions at or in
21 connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous
22 Substance Superfund; and

23 e. Within 210 days of entry of this Consent Decree Settling
24 Defendants shall pay \$225,000.00, plus interest from the date of entry, which shall
25 be deposited in the WDI Special Account within the EPA Hazardous Substance
26 Superfund to be retained and used to conduct or finance response actions at or in
27 connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous
28 Substance Superfund.

5. Payments of EPA Past Response Costs for WDI and OII Sites.

Payments by Settling Defendants to EPA for the WDI and OII Sites shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the Central District of California following lodging of the Consent Decree.

6. At the time of each payment to EPA, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XV (Notices and Submissions). Such notice shall specify the amount(s) remitted and reference the EPA Region, DOJ Case number, Site/Spill Identification Number and the Civil Action Number. For the WDI Site those numbers, respectively, are EPA Region 9, SSID - 09FY, DOJ case number 90-11-2-156/13, and civil action number CV04-6435 CBM (JWJx). For the OII Site those numbers, respectively, are EPA Region 9, SSID - 0958, DOJ case number 90-11-2-156/12, and civil action number CV01-11162 MMM (JWJx).

7. Payment of EPA Past Response Costs to Casmalia Site Escrow

Account. Within 90 days of entry of this Consent Decree, Settling Defendants shall remit the payment to the Casmalia Site Escrow Account by wiring \$93,394.00 to the following:

Wells Fargo Bank c/o Marco X. Morales
MAC N9303-120
Sixth and Marquette, Minneapolis, MN 55479
ABA/Locator #: 121000248
Bnf Account #: 0001038377
Bnf Account Name: Corporate Trust Clearing
OBI Field: Casmalia Cash Account #15924200
REF: Casmalia Resources Site Custodial Agreement
Payor: the name of the Settling Party exactly as it appears on the signatory page, below.

Any payments received by the Casmalia Site Escrow Account after 5:00 p.m. Pacific Time will be credited on the next business day.

8. At the time this payment to the Casmalia Escrow Account is made, Settling Defendants shall send notice that payment has been made to EPA and

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EXHIBIT 1

DOJ in accordance with Section XV (Notices and Submissions). Settling Defendants shall also send a copy of the completed Payment Invoice to:

Casmalia Case Team
U.S. EPA Region IX
75 Hawthorne Street (SPD-7)
San Francisco, California 94105-3901

VI. PAYMENT OF STATE PLAINTIFFS' RESPONSE COSTS AND STATE NATURAL RESOURCE DAMAGES

9. Settling Defendants shall pay to the State Plaintiffs a total of \$40,000, pursuant to the following schedule:

10. Payment of State Plaintiffs' Response Costs for WDI Site and OII Sites.

a. Within ten (10) days of entry of this Consent Decree, Settling Defendants shall pay \$18,819 to DTSC for Response Costs of DTSC with respect to the WDI Site.

b. Within ten (10) days of entry of this Consent Decree, Settling Defendants shall pay \$1,000 to DTSC for Response Costs of DTSC with respect to the OII Site.

c. Within 90 days of entry of this Consent Decree, Settling Defendants shall pay \$15,000 to DTSC for Response Costs of DTSC with respect to the WDI Site.

d. Payments made pursuant to this Consent Decree for the WDI Site or the OII Site shall be in the form of a certified or cashier's check made payable to the "Department of Toxic Substances Control", bearing on its face the case name and number.

e. Settling Defendants shall send the certified or cashier's check(s) to:

California Department of Toxic Substances Control
Accounting Section - Cashiering Unit (FLR 21-1)
Attention: Cashier
1001 "P" Street
P.O. Box 806
Sacramento, California 95812-0806

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EXHIBIT 1

At the time of payment to DTSC, Settling Defendants shall send notice that payment has been made to DTSC in accordance with Section XV (Notices and Submissions.)

11. Payment of State Plaintiffs' Response Costs and Natural Resource Damages for Casmalia Site.

a. Payments to DTSC for Casmalia Site. Within ten (10) days of entry of this Consent Decree, Settling Defendants shall pay \$1,772 to DTSC for Response Costs of DTSC with respect to the Casmalia Site. Payments made by the Settling Defendants to DTSC for the Casmalia Site shall be made by one of the following methods:

(i) by Cashier's or Certified Check sent to:

California Department of Toxic Substances Control
Accounting Section - Cashiering Unit (FLR 21-1)
Attention: Cashier
1001 "P" Street
P.O. Box 806
Sacramento, California 95812-0806

If payments are made by cashier's or certified check, the check shall be made payable to the California Department of Toxic Substances Control. The payment shall indicate the case name and case number.

or

(ii) by Wire Transfer to the California Department of Toxic Substances Control, including the following information:

1. Name and address of the California Department of Toxic Substances Control's banking institution to which the transfer is to be made:

Bank of America, Sacramento Government Services, Unit 1436
555 Capitol Mall, Suite 1555
Sacramento, CA 95814

2. Account number to which the wire transfer should be sent:

Financial Institution: Bank of America, San Francisco, CA
ABA Routing Number: 0260-0959-3

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EXHIBIT 1

Beneficiary: State of California
Beneficiary Information: State Treasurer's Demand Deposit Account
Beneficiary Account No. 14 99324597
3. Attn: Ellen Day
Government Services
(916) 321-4677

If payment to DTSC is made by wire transfer, the Settling Defendant will need to call the DTSC Accounting Office at (916) 322-5539 or (916) 324-3099 to notify them that a wire transfer will be sent and provide the Settling Defendant's name, the amount of the transfer, the case name and case number.

b. Payments to Regional Board for the Casmalia Site. Within ten (10) days of entry of this Consent Decree, Settling Defendants shall pay \$1,086 to the Regional Board for Response Costs of the Regional Board with respect to the Casmalia Site. Payment to the Regional Board for the Casmalia Site shall be made by one of the following methods:

(i) by wire transfer, including the following information:

1. Name and address of the California Department of Justice's banking institution to which the transfer is to take place:

Bank of America, Sacramento Government Services, Unit 1436
555 Capitol Mall, Suite 1555
Sacramento, CA 95814

2. Account number to which the wire transfer should be sent:
Financial Institution: Bank of America, San Francisco, CA
ABA Routing No.: 0260-0959-3
Beneficiary: State of California, Dept. of Justice
Beneficiary Information: Casmalia Disposal Site/RWQCB
Beneficiary Account No.: 01482-80005

3. Attn: Marilyn Goodridge
Government Services
(916) 321-4803

or (ii) by cashier's or certified check, sent to:
California Department of Justice
Accounting Section - Cashiering Unit
Attention: Michelle Lewis
1300 "P" Street, Suite 810
P.O. Box 944255
Sacramento, California 94244-2550

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EXHIBIT 1

1 The payments shall indicate the name of this civil case name and number.
2
3 c. **Payment to DFG for Casmalia Site.** Within ten (10) days of
4 entry of this Consent Decree, Settling Defendants shall pay \$2,323 to DFG for
5 Response Costs of DFG and the State Natural Resource Damages Claim with
6 respect to the Casmalia Site. The Settling Defendants shall make payments to DFG
7 by cashier's or certified check payable to California Department of Fish and Game
8 to the following address:

9 John Holland
10 Legal Department
11 Office of Spill Prevention and Response
12 Department of Fish and Game
13 P.O. Box 160362
14 Sacramento, California 95816-0362

15 d. Any payment received by any of the State Plaintiffs after 5:00
16 p.m. Pacific Time will be credited the next business day.

17 e. At the time of any payment to the State Plaintiffs for the Casmalia
18 Site, each Settling Defendant shall submit copies of the completed Payment
19 Invoice and a copy of the check or wire confirmation to:

20 Kimberly Kelley Espinoza
21 Senior Legal Analyst
22 Office of the Attorney General, Environment Section
23 California Department of Justice
24 110 W. A Street, Suite 1100
25 San Diego, California 92101

26 VII. FAILURE TO COMPLY WITH CONSENT DECREE

27 12. **Interest on Late Payments and Cure.** If Settling Defendants fail to
28 make any payment under Paragraph 4 (Payment of EPA Response Costs) or
Section VI (Payment of State Plaintiffs' Response Costs) by the required due date,
all remaining installment payments and all accrued interest shall become due
immediately upon such failure. Interest shall continue to accrue on any unpaid
amounts until the total amount due has been received. However, if Settling
Defendants cure a delinquency by making a late payment to EPA within 30 days
of the required due date, including all of the then-accrued interest and stipulated

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EXHIBIT 1

1 penalties as provided for in Paragraph 13, then further stipulated penalties shall
2 cease to run as of the date the late payment is received, and Settling Defendants
3 may make future payments to EPA pursuant to the Schedule set forth in Paragraph
4 4. If Settling Defendants cure a delinquency by making a late payment to DTSC
5 within 30 days of the required due date, including all of the then-accrued interest
6 and stipulated penalties as provided for in Paragraph 18, then further stipulated
7 penalties shall cease to run as of the date the late payment is received, and Settling
8 Defendants may make future payments to DTSC pursuant to the Schedule set forth
9 in Section VI.

10 13. **EPA Stipulated Penalty.**

11 a. If any amounts due under Paragraph 4 are not paid by the required dates,
12 Settling Defendants shall be in violation of this Consent Decree and shall pay to
13 EPA, as a stipulated penalty, in addition to the interest required by Paragraph 12,
14 \$5,000.00 per violation per day that such payment is late.

15 b. Stipulated penalties are due and payable within 30 days of the date of
16 the demand for payment of the penalties by EPA. All payments to EPA under this
17 Paragraph shall be identified as "stipulated penalties" and shall be made by
18 certified or cashier's check made payable to "EPA Hazardous Substance
19 Superfund." The check, or a letter accompanying the check, shall reference the
20 name and address of the party(ies) making payment, the WDI Site name, the EPA
21 Region and WDI Site/Spill ID Number 09FY, DOJ Case Number 90-11-2-156/13,
22 and the civil action number. Settling Defendants shall send the check (and any
23 accompanying letter) to:

24 Mellon Bank EPA - Region 9
25 Attn: Superfund Accounting
26 P.O. Box 371099M
27 Pittsburgh, PA 15251

28 c. At the time of each payment, Settling Defendants shall also send notice
that payment has been made to EPA and DOJ in accordance with Section XV
(Notices and Submissions). Such notice shall reference the EPA Region and WDI

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EXHIBIT 1

1 Site/Spill ID Number 09FY, DOJ Case Number 90-11-2-156/13, and the civil
2 action number.

3 d. Penalties shall accrue as provided in this Paragraph regardless of
4 whether EPA has notified Settling Defendants of the violation or made a demand
5 for payment, but need only be paid upon demand. All penalties shall begin to
6 accrue on the day after payment is due and shall continue to accrue through the
7 date of payment. Nothing herein shall prevent the simultaneous accrual of
8 separate penalties for separate violations of this Consent Decree.

9 14. If the United States brings an action to enforce this Consent Decree,
10 Settling Defendants shall reimburse the United States for all costs of such action,
11 including but not limited to costs of attorney time.

12 15. Payments made under this Section shall be in addition to any other
13 remedies or sanctions available to Plaintiffs by virtue of Settling Defendants'
14 failure to comply with the requirements of this Consent Decree.

15 16. The obligations of Settling Defendants to pay amounts owed the
16 United States under this Consent Decree are joint and several. In the event of the
17 failure of any one or more Settling Defendants to make the payments required
18 under this Consent Decree, the remaining Settling Defendants shall be responsible
19 for such payments.

20 17. Notwithstanding any other provision of this Section, the United States
21 may, in its unreviewable discretion, waive payment of any portion of the stipulated
22 penalties that have accrued pursuant to this Consent Decree. Payment of
23 stipulated penalties shall not excuse Settling Defendants from payment as required
24 by Section V or from performance of any other requirements of this Consent
25 Decree.

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EXHIBIT 1

1 18. **DTSC Stipulated Penalty.**

2 a. If any amounts due under Section VI are not paid in the amounts
3 specified by the required dates, Settling Defendants shall be in violation of this
4 Consent Decree and shall pay to DTSC, as a stipulated penalty, in addition to the
5 interest required by Paragraph 12, \$5,000.00 per violation per day that such
6 payment is late.

7 b. Stipulated penalties are due and payable within 30 days of the date of
8 the demand for payment of the penalties by DTSC. All payments to DTSC under
9 this Paragraph shall be identified as "stipulated penalties" and shall be made by
10 certified or cashier's check made payable to "Department of Toxic Substances
11 Control." The check, or a letter accompanying the check, shall reference the name
12 and address of the party(ies) making payment, the civil case name and number.
13 Settling Defendants shall send the check (and any accompanying letter) to:

14 California Department of Toxic Substances Control
15 Accounting Section - Cashiering Unit (FLR 21-1)
16 Attention: Cashier
17 1001 "T" Street
18 P.O. Box 806
19 Sacramento, California 95812-0806

20 c. At the time of each payment, Settling Defendants shall also send notice
21 that payment has been made to DTSC in accordance with Section XV (Notices and
22 Submissions). Such notice shall reference the civil case name and number.

23 d. Penalties shall accrue as provided in this Paragraph regardless of
24 whether DTSC has notified Settling Defendants of the violation or made a demand
25 for payment, but need only be paid upon demand. All penalties shall begin to
26 accrue on the day after payment is due and shall continue to accrue through the
27 date of payment. Nothing herein shall prevent the simultaneous accrual of
28 separate penalties for separate violations of this Consent Decree.

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EXHIBIT 1

1 19. If State Plaintiffs bring an action to enforce this Consent Decree,
2 Settling Defendants shall reimburse the State Plaintiffs for all costs of such action,
3 including but not limited to costs of attorney time.

4 20. Payments made under this Section shall be in addition to any other
5 remedies or sanctions available to State Plaintiffs by virtue of Settling Defendants'
6 failure to comply with the requirements of this Consent Decree.

7 21. The obligations of Settling Defendants to pay amounts owed the State
8 Plaintiffs under this Consent Decree are joint and several. In the event of the
9 failure of any one or more Settling Defendants to make the payments required
10 under this Consent Decree, the remaining Settling Defendants shall be responsible
11 for such payments.

12 22. Notwithstanding any other provision of this Section, DTSC may, in its
13 unreviewable discretion, waive payment of any portion of the stipulated penalties
14 that have accrued pursuant to this Consent Decree. Payment of stipulated
15 penalties shall not excuse Settling Defendants from payment as required by
16 Section VI or from performance of any other requirements of this Consent Decree.

17 **VIII. COVENANT NOT TO SUE BY UNITED STATES**

18 23. Covenant Not to Sue by United States. Except as specifically
19 provided in Section IX (Reservation of Rights by United States); the United States
20 covenants not to sue or to take administrative action against Settling Defendants
21 pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a), or
22 Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the WDI Site, the OII Site,
23 or the Casmalia Site. This covenant not to sue shall take effect upon the entry date
24 of this Consent Decree. This covenant not to sue is conditioned upon the
25 satisfactory performance by Settling Defendants of their obligations to the United
26 States under this Consent Decree, including but not limited to, payment of all
27 amounts due under Section V (Payment of Response Costs), and any amount due
28

1 under Section VII (Failure to Comply with Consent Decree). This covenant not to
2 sue is also conditioned upon the veracity and completeness of the Financial
3 Information provided to EPA and DOJ by Settling Defendants. If the Financial
4 Information is subsequently determined by EPA to be false or, in any material
5 respect, inaccurate, Settling Defendant shall forfeit all payments made pursuant to
6 this Consent Decree and this covenant not to sue and the contribution protection in
7 Paragraph 45 shall be null and void. Such forfeiture shall not constitute liquidated
8 damages and shall not in any way foreclose the United States' right to pursue any
9 other causes of action arising from Settling Defendants' false or materially
10 inaccurate information. This covenant not to sue extends only to Settling
11 Defendants and does not extend to any other person.

12 24. Effect of Settlement. This Consent Decree resolves the civil claims of
13 the United States for the violations of Section 104(e) of CERCLA, 42 U.S.C. §
14 9604(e), and the Federal Debt Collection Procedures Act with respect to the WDI
15 Site alleged in the Complaint filed in this action through the date of lodging.

16 **IX. RESERVATIONS OF RIGHTS BY UNITED STATES**

17 25. The United States reserves, and this Consent Decree is without
18 prejudice to, all rights against Settling Defendants with respect to all matters not
19 expressly included within the Covenant Not to Sue by United States in Paragraph
20 23. Notwithstanding any other provision of this Consent Decree, the United States
21 reserves all rights against Settling Defendants with respect to:

- 22 a. liability for failure of Settling Defendants to meet a requirement of this
23 Consent Decree;
- 24 b. criminal liability;
- 25 c. liability arising from any future arrangement for disposal or treatment of
26 a hazardous substance, pollutant, or contaminant at the WDI Site or OII Site by
27 that Settling Defendant after the effective date of this Consent Decree;
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1 d. liability arising from the past, present, or future arrangement for
2 disposal or treatment by a Settling Defendant of a hazardous substance, pollutant,
3 or contaminant outside of the WDI Site, Casmalia Site, or OII Site; and

4 e. liability arising from the past, present, or future arrangement for disposal
5 or treatment by a Settling Defendant of a hazardous substance, pollutant, or
6 contaminant at the Casmalia Site that is from a facility or specific location other
7 than 910 Fomham Ave. or 12354 and 12345 ~~XXXXXX~~ Rd., Santa Fe Springs,
8 California.

9 26. Notwithstanding any other provision in this Consent Decree, the
10 United States reserves, and this Consent Decree is without prejudice to, the right
11 to institute judicial or administrative proceedings against Settling Defendants
12 seeking to compel Settling Defendants to perform response actions relating to the
13 Casmalia Site, and/or to reimburse the United States for additional costs of
14 response and/or Natural Resource Damages, if information not currently known to
15 the EPA is discovered that indicates Settling Defendants no longer qualify as *de*
16 *minimis* parties at the Casmalia Site because Settling Defendants contributed more
17 than 8.5 million pounds of materials containing hazardous substances to the
18 Casmalia Site, or contributed hazardous substances the toxic or other hazardous
19 effect of which is not minimal in comparison to other hazardous substances at the
20 Casmalia Site as set forth in the Contaminants List attached as Appendix F.

21 27. Notwithstanding any other provision of this Consent Decree, the
22 United States reserves, and this Consent Decree is without prejudice to, the right
23 to reinstitute or reopen this action, or to commence a new action seeking relief
24 other than as provided in this Consent Decree, if the Financial Information
25 provided by Settling Defendants, or the financial certification made by Settling
26 Defendants in Paragraph 49, is false or, in any material respect, inaccurate.
27 //

1 28. Notwithstanding any other provision of this Consent Decree, the
2 United States retains all authority and reserves all rights to take any and all
3 response actions authorized by law.

4 **X. COVENANT NOT TO SUE BY STATE PLAINTIFFS**

5 29. Covenant Not to Sue for WDI Site and OII Site. In consideration of
6 the payments that will be made by the Settling Defendants to DTSC under the
7 terms of this Consent Decree, and except as specifically provided in Section XI
8 (Reservation of Rights by State Plaintiffs) of this Consent Decree, DTSC hereby
9 covenants not to sue or to take administrative action against Settling Defendants
10 pursuant to section 107(a) and 113 of CERCLA, 42 U.S.C. § 9607 and 9613, and
11 section 7002 of RCRA, 42 U.S.C. § 6972, or the California Health and Safety
12 Code, sections 25300 *et seq.*, relating to the WDI Site or the OII Site.

13 30. Covenant Not to Sue for Casmalia Site. In consideration of the
14 payments that will be made by Powerline to the State Plaintiffs under the terms of
15 this Consent Decree, and except as specifically provided in Section XI of this
16 Consent Decree, the State Plaintiffs hereby covenant not to sue or to take
17 administrative action against Powerline pursuant to section 107 and 113 of
18 CERCLA, 42 U.S.C. § 9607 and 9613, and section 7002 of RCRA, 42 U.S.C.
19 § 6972, or the State Statutes, relating to the Casmalia Site, including for recovery
20 of Natural Resource Damages and for response costs incurred or to be incurred by
21 DFG.

22 31. With respect to present and future liability, these covenants shall take
23 effect upon the effective date of this Consent Decree as set forth in Section XVII
24 (Effective Date). These covenants are conditioned upon: a) the satisfactory
25 performance by Settling Defendants of all their obligations to the State Plaintiffs
26 under this Consent Decree; and b) the veracity of the Financial Information
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provided to EPA and State Plaintiffs by Settling Defendants. These covenants extend only to Settling Defendants and do not extend to any other person.

XI. RESERVATION OF RIGHTS BY STATE PLAINTIFFS

32. The covenants by the State Plaintiffs set forth in Paragraphs 29 and 30 of this Consent Decree do not pertain to any matters other than those expressly specified in Paragraphs 29 and 30.

33. **WDI Site and OII Site Reservations.** With respect to DTSC's Covenant not to sue for the WDI Site and the OII Site, DTSC reserves, and this Consent Decree is without prejudice to, all rights against the Settling Defendants; with respect to all other matters, including but not limited to:

- liability for failure to meet a requirement of this Consent Decree;
- criminal liability;
- liability arising from any future arrangement for disposal or treatment of a hazardous substance, pollutant or contaminant at the WDI Site or OII Site by that Settling Defendant after the effective date of this Consent Decree; and
- liability arising from the past, present, or future arrangement for disposal or treatment by Settling Defendants of a hazardous substance, pollutant, or contaminant outside of the WDI Site or the OII Site.

34. Notwithstanding any other provision in this Consent Decree, DTSC reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information provided by Settling Defendants, or the financial certification made by Settling Defendants in Paragraph 50, is false or, in any material respect, inaccurate. If the Financial Information is subsequently determined by DTSC to be false or, in any material respect, inaccurate, Settling Defendants shall forfeit all payments made to State Plaintiffs pursuant to this Consent Decree and this covenant not to sue and the

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EXHIBIT 1

contribution protection in Paragraph 45 shall be null and void. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the State Plaintiffs' right to pursue any other causes of action arising from Settling Defendants' false or materially inaccurate information.

35. **Casmalia Site Reservations.** With respect to the State Plaintiffs' covenants not to sue for the Casmalia Site, the State Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights against the Settling Defendants, with respect to all other matters, including but not limited to:

- liability for failure to meet a requirement of this Consent Decree;
- criminal liability;
- liability arising from any future arrangement for disposal or treatment of a hazardous substance, pollutant or contaminant at the Casmalia Site by that Settling Defendant after the effective date of this Consent Decree; and
- liability arising from the past, present, or future arrangement for disposal or treatment by Settling Defendants, or a subsidiary or affiliated entity of any Settling Defendant, of a hazardous substance, pollutant, or contaminant at the Casmalia Site that is both (1) not from a facility or specific location owned or operated by that Settling Defendant as specified in Appendix E, and (2) not included in the volume of waste attributed to that State Settling Party as set forth in Appendix E.

36. Notwithstanding any other provision in this Consent Decree, the State Plaintiffs reserve, and this Consent Decree is without prejudice to, the right to institute judicial or administrative proceedings seeking to compel any Settling Defendant to perform response actions relating to the Casmalia Site, and/or to reimburse the State Plaintiffs for additional costs of response and/or Natural Resource Damages, if information not currently known to the EPA or the State Plaintiffs is discovered that indicates Settling Defendants no longer qualify as de

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EXHIBIT 1

minimis parties at the Casmalia Site because Settling Defendants contributed more than 8.5 million pounds of materials containing hazardous substances to the Casmalia Site, or contributed hazardous substances the toxic or other hazardous effect of which is not minimal in comparison to other hazardous substances at the Casmalia Site as set forth in the Contaminants List attached as Appendix F. For purposes of this Section only, the volume of material contributed by a Settling Defendant shall not include any waste sent by an entity merged into or otherwise acquired by such Settling Defendant after the effective date of this Consent Decree.

XII. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

37. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, State Plaintiffs or their contractors or employees, with respect to the WDI Site, the OII Site, the Casmalia Site, or this Consent Decree, including but not limited to:

- any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- any claim arising out of the response actions at the WDI Site, the OII Site, or the Casmalia Site, including any claim under the United States Constitution, the Constitution of the State of California, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or
- any claim against the United States or State Plaintiffs pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

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EXHIBIT 1

38. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

39. Except as provided in Paragraphs 41, 42 and 43 (Waiver of Claims) and Paragraph 47 (Waiver of Claim Splitting Defenses), the covenants not to sue set forth in Paragraph 37 shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 25 (b), 25 (c), and 25 (e), but only to the extent that Settling Defendant's claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation.

40. Except as provided in Paragraphs 41, 42 and 43 (Waiver of Claims) and Paragraph 47 (Waiver of Claim Splitting Defenses), the covenants not to sue set forth in Paragraph 37 shall not apply in the event the State Plaintiffs bring a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 33, 34, and 35, but only to the extent that Settling Defendant's claims arise from the same response action or response costs that State Plaintiffs are seeking pursuant to the applicable reservation.

41. **Waiver of Claims.** Settling Defendants covenant not to sue and agree not to assert any claims or causes of action with regard to the Casmalia Site pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, for matters addressed by this Consent Decree, against:

- any Potentially Responsible Parties (PRPs) that EPA may in the future designate as de micromis, consistent with EPA's Revised Guidance on CERCLA Settlements with De Micromis Waste Contributors (June 3, 1996), the Memorandum dated November 6, 2002, entitled "Revised Settlement Policy and Contribution Waiver Language Regarding Exempt De Micromis and Non-Exempt De Micromis Parties" and/or other applicable guidance;

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EXHIBIT 1

1 b. any other PRP for a period of thirty-three (33) months after the
2 effective date of this Consent Decree, at which time Settling Defendants may
3 assert claims or causes of action against any non-de minimis PRPs that have not
4 settled their liability for the Casmalia Site;
5 c. any of the defendants in *United States v. ABB Vetco Gray, Inc.*, Civ. No.
6 96-6518-KMW (JGx), that are parties to the Casmalia Consent Decree entered in
7 that action on June 27, 1997; and
8 d. any person that has entered or in the future enters into a settlement
9 agreement with the United States, EPA or State Plaintiffs for response costs or
10 Natural Resource Damages claims for matters addressed in such settlement.
11 42. Settling Defendants agree not to assert any claims and to waive all
12 claims or causes of action they may have for all matters relating to the OII Site,
13 including, but not limited to, for contribution, against any person where the
14 person's liability to Settling Defendants with respect to the OII Site is based solely
15 on having arranged for disposal or treatment, or for transport for disposal or
16 treatment, of hazardous substances at the OII Site, or having accepted for transport
17 for disposal or treatment of hazardous substances at the OII Site, if EPA
18 determines that: (a) any materials contributed by such person to the OII Site
19 constituting municipal solid waste or municipal sewage sludge did not exceed
20 0.2% of the total volume of waste at the OII Site; and (b) any materials contributed
21 by such person to the OII Site containing hazardous substances, but not
22 constituting municipal solid waste or municipal sewage sludge, did not exceed
23 2,100 gallons of liquid materials, or the equivalent, using EPA's conversion
24 factors. This waiver shall not apply to any claim or cause of action against any
25 person meeting the above criteria if EPA has determined that the materials
26 contributed to the OII Site by such person contributed or could contribute
27 significantly to the costs of response at the OII Site. This waiver also shall not
28

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EXHIBIT 1

1 apply with respect to any defense, claim, or cause of action that a Settling
2 Defendant may have against any person if such person asserts a claim or cause of
3 action relating to the OII Site against such Settling Defendant.
4 43. Settling Defendants agree not to assert any claims and to waive all
5 claims or causes of action that they may have for all matters relating to the OII
6 Site, including, but not limited to, for contribution, against any person that has
7 entered into a final CERCLA § 122(g) de minimis settlement with EPA or State
8 Plaintiffs with respect to the OII Site as of the effective date of this Consent
9 Decree. This waiver shall not apply with respect to any defense, claim, or cause of
10 action that a Settling Defendant may have against any person if such person
11 asserts a claim or cause of action relating to the OII Site against such Settling
12 Defendant.

XIII. FURTHER EFFECT OF SETTLEMENT/ CONTRIBUTION PROTECTION

13
14
15 44. Nothing in this Consent Decree shall be construed to create any rights
16 in, or grant any cause of action to, any person not a Party to this Consent Decree.
17 Except as provided in Paragraphs 41, 42, 43 and 47 (Waiver of Claims), the
18 Parties expressly reserve any and all rights (including, but not limited to, any right
19 to contribution), defenses, claims, demands, and causes of action that they may
20 have with respect to any matter, transaction, or occurrence relating in any way to
21 the WDI Site, the OII Site, or the Casmalia Site against any person not a Party
22 hereto.
23 45. The Parties agree, and by entering this Consent Decree this Court
24 finds, that Settling Defendants are entitled, as of the date of entry of this Consent
25 Decree, to protection from contribution actions or claims as provided by Section
26 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2) - (3), for "matters
27 addressed" in this Consent Decree. The "matters addressed" in this Consent
28

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EXHIBIT 1

1 Decree are all response actions taken or to be taken and all response costs incurred
2 or to be incurred by the United States, the State Plaintiffs, or any other person with
3 respect to the WDI Site, the OII Site, and the Casmalia Site, and the State Natural
4 Resource Damages Claim with respect to the Casmalia Site, except for those
5 matters expressly reserved herein.
6 46. Each Settling Defendant agrees that, with respect to any suit or claim
7 for contribution brought by it for matters related to this Consent Decree, it will
8 notify EPA, DOJ, and the State Plaintiffs in writing no later than 60 days prior to
9 the initiation of such suit or claim. Each Settling Defendant also agrees that, with
10 respect to any suit or claim for contribution brought against it for matters related
11 to this Consent Decree, it will notify EPA, DOJ, and the State Plaintiffs in writing
12 within 10 days of service of the complaint or claim upon it. In addition, each
13 Settling Defendant shall notify EPA, DOJ, and the State Plaintiffs within 10 days
14 of service or receipt of any Motion for Summary Judgment, and within 10 days of
15 receipt of any order from a court setting a case for trial, for matters related to this
16 Consent Decree. However, EPA, DOJ, and the State Plaintiffs acknowledge
17 notice of the claims for contribution already filed by Settling Defendants in
18 *Powerine, et al. v. Estate of Rothschild, et al.*, Case No. CV 06-0855 (C.D. Cal).
19 47. In any subsequent administrative or judicial proceeding initiated by
20 the United States or the State Plaintiffs for injunctive relief, recovery of response
21 costs, or other relief relating to the WDI Site, the OII Site, or the Casmalia Site,
22 Settling Defendants shall not assert, and may not maintain, any defense or claim
23 based upon the principles of waiver, *res judicata*, collateral estoppel, issue
24 preclusion, claim-splitting, or other defenses based upon any contention that the
25 claims raised by the United States or the State Plaintiffs in the subsequent
26 proceeding were or should have been brought in the instant case; provided,
27 however, that nothing in this Paragraph affects the enforceability of the Covenant
28

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EXHIBIT 1

1 Not to Sue by United States or the State Plaintiffs set forth in Sections VIII and X,
2 respectively.

XIV. RETENTION OF RECORDS

3
4 48. Until 10 years after the entry of this Consent Decree, each Settling
5 Defendant shall preserve and retain all records, reports, or information (hereinafter
6 referred to as "records") now in its possession or control, or which come into its
7 possession or control, that relate in any manner to response actions taken at the
8 WDI Site, the OII Site, or the Casmalia Site, or the liability of any person under
9 CERCLA with respect to these Sites, regardless of any corporate retention policy
10 to the contrary.
11 49. After the conclusion of the 10-year document retention period in the
12 preceding paragraph, Settling Defendants shall notify EPA, DOJ and the State
13 Plaintiffs at least 90 days prior to the destruction of any such records, and, upon
14 request by EPA, DOJ, or the State Plaintiffs, Settling Defendants shall deliver any
15 such records to EPA or the State Plaintiffs. Settling Defendants may assert that
16 certain records are privileged under the attorney-client privilege or any other
17 privilege recognized by federal law. If Settling Defendants assert such a privilege,
18 they shall provide Plaintiff with the following: 1) the title of the record; 2) the
19 date of the record; 3) the name, title, affiliation (e.g., company or firm), and
20 address of the author of the record; 4) the name and title of each addressee and
21 recipient; 5) a description of the subject of the record; and 6) the privilege
22 asserted. If a claim of privilege applies only to a portion of a record, the record
23 shall be provided to Plaintiff in redacted form to mask the privileged information
24 only. Settling Defendants shall retain all records that they claim to be privileged
25 until the United States has had a reasonable opportunity to dispute the privilege
26 claim and any such dispute has been resolved in the Settling Defendants' favor.
27 However, no records created or generated pursuant to the requirements of this or
28

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EXHIBIT 1

any other settlement with the EPA or the State Plaintiffs pertaining to the WDI Site, the OII Site, or the Casmalia Site shall be withheld on the grounds that they are privileged.

50. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the WDI Site, the OII Site, or the Casmalia Site since notification of potential liability by the United States or the State Plaintiffs or the filing of suit against it regarding these Sites and that it has provided all documents and information sought by any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6972;

b. submitted to EPA and DOJ and, through EPA, to the State Plaintiffs, Financial Information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the Financial Information was submitted to EPA and DOJ and the time each Settling Defendant executes this Consent Decree.

XV. NOTICES AND SUBMISSIONS

51. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, the State Plaintiffs, and Settling Defendants, respectively.

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EXHIBIT 1

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice (DJ # 90-11-2-156/13)
P.O. Box 7611
Washington, D.C. 20044-7611

As to EPA:

Chief, Superfund Site Cleanup Branch
United States Environmental Protection Agency, Region IX
75 Hawthorne St.
San Francisco, CA 94105
Re: WDI Superfund Site

Russell Mechem
EPA Project Coordinator
United States Environmental Protection Agency, Region IX
75 Hawthorne St.
San Francisco, CA 94105
Re: WDI Superfund Site

As to the Regional Financial Management Officer:

David Wood, Chief, Cost Accounting
United States Environmental
Protection Agency Region IX
75 Hawthorne St.
San Francisco, CA 94105
Re: WDI Superfund Site

As to State Plaintiffs:

Sayarah Amir, Chief
Southern California Cleanup Operations
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, CA 91201

Caroline Rudolph
Project Coordinator for the Casmalia Disposal Site
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

Roger Briggs, Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Pl., Ste 101
San Luis Obispo 93401

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EXHIBIT 1

Theodora Berger
Senior Assistant Attorney General
Environment Section
Attorney General's Office
State of California Department of Justice
300 South Spring Street
Los Angeles, California 90013-1230

As to Settling Defendants:

Vincent J. Papa, Esq.
c/o Energy Merchant Corp.
126 East 56th Street
33rd Floor
New York, NY 10022

Albert M. Cohen, Esq.
Loeb & Loeb LLP
10100 Santa Monica Blvd., Suite 2200
Los Angeles, CA 90067

XVI. RETENTION OF JURISDICTION

52. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVII. EFFECTIVE DATE

53. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

XVIII. INTEGRATION/APPENDICES

54. This Consent Decree and its appendices constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is a map of the WDI Site; "Appendix B" is a map of the OII Site; "Appendix C" is a map of the Casmalia Site; "Appendix D" is a list of the Financial Information documents provided by the Settling Defendants; "Appendix E" is a

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EXHIBIT 1

Summary of the State Plaintiffs' Settlement Amounts; and "Appendix F" is a list of contaminants found at the Casmalia Superfund Site.

XIX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

55. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

56. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XX. SIGNATORIES/SERVICE

57. Each undersigned representative of a Settling Defendant to this Consent Decree, the Assistant Attorney General, Environment and Natural Resources Division of the United States Department of Justice, and the State Plaintiffs certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

58. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

59. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to

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EXHIBIT 1

1 this Consent Decree. Settling Defendants hereby agree to accept service in that
2 manner and to waive the formal service requirements set forth in Rule 4 of the
3 Federal Rules of Civil Procedure and any applicable local rules of this Court,
4 including but not limited to, service of a summons. However, if no agent is
5 specified, the attorney of record for each Settling Defendant shall be deemed to be
6 the agent authorized to accept service at the address listed. Settling Defendants
7 hereby agree to accept service in that manner and to waive the formal service
8 requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any
9 applicable local rules of this Court, including but not limited to, service of a
10 summons.

11 **XXI. FINAL JUDGMENT**

12 60. Upon approval and entry of this Consent Decree by the Court, this
13 Consent Decree shall constitute a final judgment between and among the United
14 States, the State Plaintiffs and the Settling Defendants. The Court finds that there
15 is no just reason for delay and therefore enters this judgment as a final judgment
16 under Fed. R. Civ. P. 54 and 58.

17
18 SO ORDERED THIS ____ DAY OF _____, 2007.

19
20
21 CONSUELO B. MARSHALL
22 United States District Judge
23
24
25
26
27
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EXHIBIT 1

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of
2 *United States v. Powerline Oil Company, et al.*, No. CV04-6435 CBM (JWJx),
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR THE UNITED STATES OF AMERICA

6 Date

RONALD J. TENPAS
Acting Assistant Attorney General
Environment and Natural
Resources Division
U.S. Department of Justice
950 Pennsylvania Ave., NW,
Rm. 2718
Washington, D.C. 20530

10 Date

11 17 Oct 2007
KARL J. FINGERHOOD
Environmental Enforcement Section
Environment and Natural
Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

16 THOMAS P. O'BRIEN
United States Attorney
Central District of California

18 MONICA L. MILLER
Assistant U.S. Attorney

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3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR THE UNITED STATES OF AMERICA

6 10/11/07
Date

Keith Takata
Director, Superfund Division
U.S. Environmental Protection Agency
Region IX
75 Hawthorne St.
San Francisco, CA 94105

8
9
10 8/15/07
Date

Taly L. Jolish
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne St.
San Francisco, CA 94105

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EXHIBIT 1

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3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR THE STATE PLAINTIFFS

6 8/22/07
Date

Hamid Saebfar, Acting Deputy Director
Site Mitigation and Brownfields Reuse
Program
California Department of Toxic
Substances Control

9 Date

Roger W. Briggs, Executive Officer
California Regional Water Quality
Control Board, Central Coast Region

13 Date

Ryan Broddrick, Director
California Department of Fish and
Game

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EXHIBIT 1

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2 *United States v. Powerline Oil Company, et al.*, No. CV04-6435 CBM (JW/x),
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR THE STATE PLAINTIFFS

6 Date _____ Maureen F. Gorsen, Director
7 California Department of
8 Toxic Substances Control

9 8-21-07

10 Date _____ Roger W. Briggs, Executive Officer
11 California Regional Water Quality
12 Control Board, Central Coast Region

13 Date _____ Ryan Broddrick, Director
14 California Department of Fish and
15 Game

16 - 37 -

17 38

18 EXHIBIT 1

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3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR THE STATE PLAINTIFFS

6 Date _____ Maureen F. Gorsen, Director
7 California Department of
8 Toxic Substances Control

9 Date _____ Roger W. Briggs, Executive Officer
10 California Regional Water Quality
11 Control Board, Central Coast Region

12 8/24/07

13 Date _____ Ryan Broddrick, Director
14 California Department of Fish and
15 Game

16 - 37 -

17 39

18 EXHIBIT 1

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2 *United States v. Powerline Oil Company, et al.*, No. CV04-6435 CBM (JW/x),
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR DEFENDANT POWERLINE OIL
6 COMPANY

7 Date: August 6, 2007

8 Michael Egner
9 Chief Financial Officer
10 12345 Lakeland Boulevard
11 Santa Fe Springs, CA 90670

12 Agent Authorized to Accept Service on Behalf of Above-signed Party:

13 Name: _____

14 Title: _____

15 Address: _____

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17 40

18 EXHIBIT 1

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of
2 *United States v. Powerline Oil Company, et al.*, No. CV04-6435 CBM (JW/x),
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia
4 Resources Superfund Sites.

5 FOR DEFENDANT CENCO REFINING
6 COMPANY n/k/a LAKELAND
7 DEVELOPMENT COMPANY

8 Date: August 6, 2007

9 Michael Egner
10 Chief Financial Officer
11 12345 Lakeland Boulevard
12 Santa Fe Springs, CA 90670

13 Agent Authorized to Accept Service on Behalf of Above-signed Party:

14 Name: _____

15 Title: _____

16 Address: _____

17 - 39 -

18 41

19 EXHIBIT 1

EXHIBIT 1

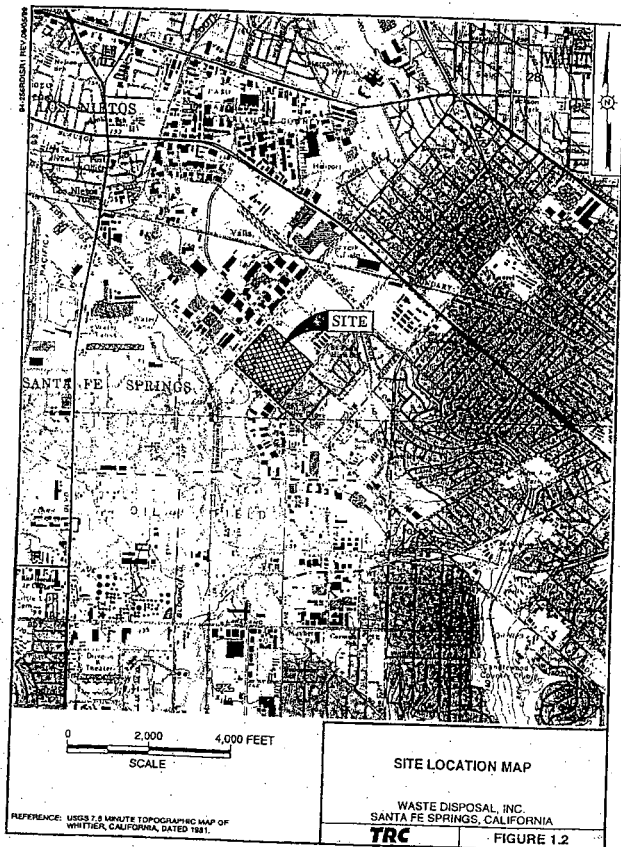


EXHIBIT 1

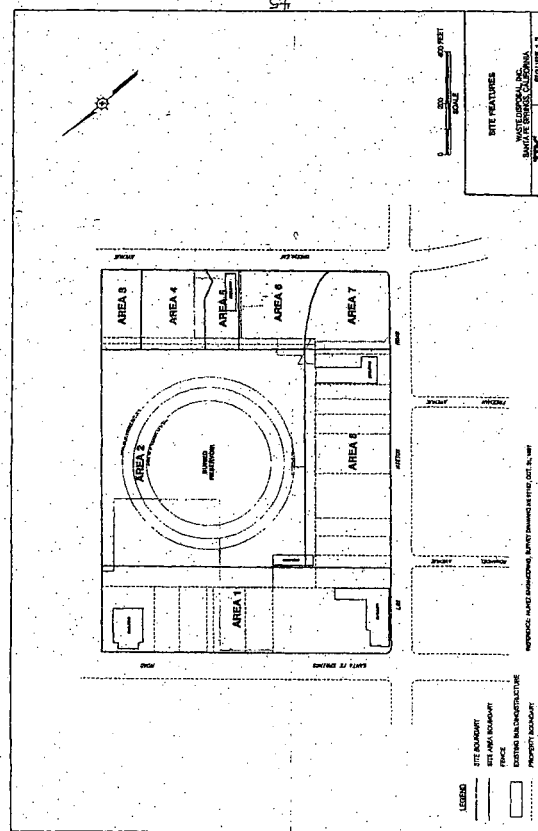


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EXHIBIT 1

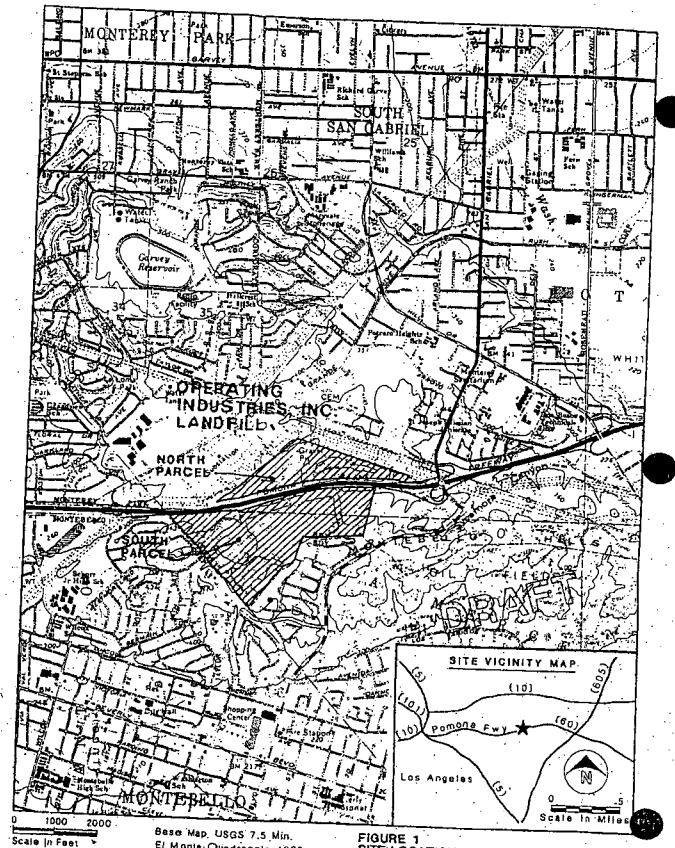
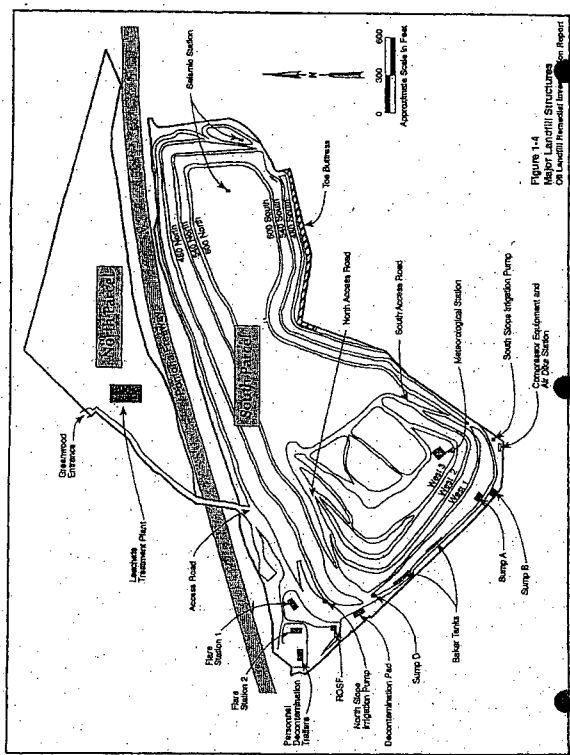


FIGURE 1
SITE LOCATION MAP
OPERATING INDUSTRIES, INC. LANDFILL
OUGS-GAS MIGRATION CONTROL

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EXHIBIT 1

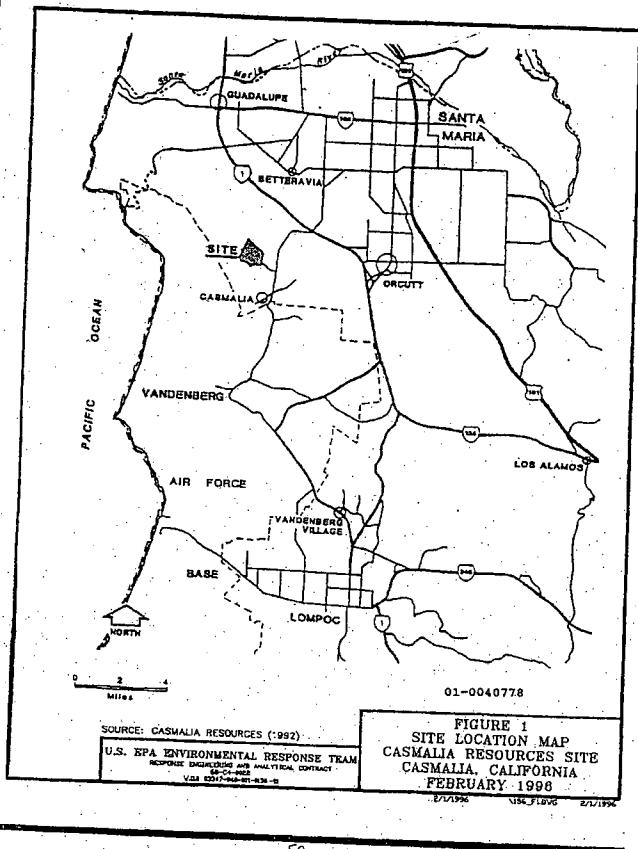


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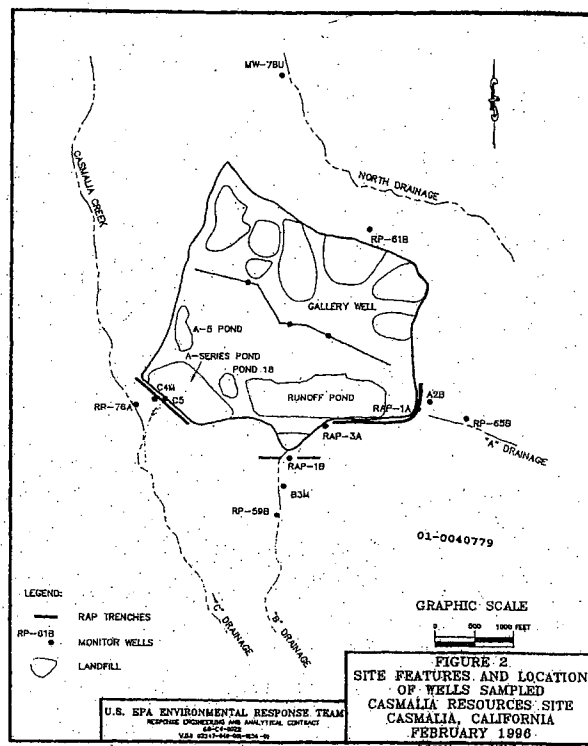
EXHIBIT 1

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EXHIBIT 1



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EXHIBIT 1



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EXHIBIT 1

Attachment to Consent Decree for Powerline Oil Company, et al:
List of ability to pay related documentation

1. Letter from Kenneth W.P. Thomas, Arcadis to David Isola, Isola Bowers LLP with cost estimate table, January 14, 2004
2. Cover sheet for application for parties with limited financial abilities (dated March 30, 2005). Enclosures:
 - a. EPA Financial Statement for Businesses, unsigned and undated
 - b. Energy Merchant Group organizational chart
 - c. By-laws of Energy Merchant Corp.
 - d. Consent of Sole Director of Energy Merchant Corp., January 2, 2003
 - e. Consent of Sole Director of Energy Merchant Corp., October 17, 2003
 - f. Consent of Sole Director of Energy Merchant Corp., April 1, 2004
 - g. Consent of Sole Director of Energy Merchant Corp., January 2, 2005
 - h. Consent of Sole Director of Energy Merchant Corp., April 25, 2005
 - i. Certificate of Amendment of Certificate of Incorporation, April 11, 2000
 - j. Citibank account number 45215777, statements for periods ending April 30, 2004 through March 31, 2005
 - k. Combined Financial Statements for two years ending December 31, 1999 through December 31, 2003, Energy Merchant Corporation
 - l. IRS Form 1120, U.S. Corporation Income Tax Return, 1999 through 2003
3. Letter from Albert M. Cohen, Loeb & Loeb to Karl Fingerhoup, USDOT, February 1, 2006, with enclosures:
 - a. Responses to questions and signed verification
 - b. Detail of Trading Gains & Losses, January-December 1999
 - c. EMC Capital Corp. Pioneer Account summary of monthly transactions, years ending December 31, 1999, 2000
 - d. EMC Capital Corp. Refco Account summary of monthly transactions, years ending December 31, 1999, 2000
 - e. EMC Capital Corp. S. Stone Account summary of monthly transactions, years ending December 31, 1999, 2000
 - f. IRS Form 1120, U.S. Corporation Income Tax Return, 1999, for Energy Merchant Corporation
 - g. Financial Statements, December 31, 2001 and 2000, December 31, 2002 and 2001, December 31, 2003 and December 31, 2004 for Energy Merchant LLC
 - h. EMC Securities at Market, as of 12/31/00
 - i. Energy Merchant Corporation Form 1120 US Corporation Income Tax Return Schedule M-1 and M-3 Analysis, 1999 through 2004
 - j. Energy Merchant Corporation Consolidated Balance Sheet, 2002 and 2003
 - k. IRS Form 1065, U.S. Return of Partnership Income, 2002 and 2003, for Energy Merchant Advisory Co., LLC
 - l. IRS Form 1120, U.S. Corporation Income Tax Return, 2003, for Energy Merchant Holding, Inc.

EXHIBIT 1

Appendix F
Contaminants List

2-Chlorophenol	Benzyl butyl phthalate
2-Chlorotoluene	Beryllium
2-Hexanone	Beryllium
2-Methylnaphthalene	Beta BHC
2-Nitrophenol	bis(2-Chloroethoxy) methane
2-Picoline	bis(2-Chloroethyl) ether
4,4'-DDT	bis(2-Ethylhexyl) phthalate
4-Chloro-3-methylphenol	Bromide
4-Nitrophenol	Bromobenzene
Acenaphthene	Bromochloromethane
Acenaphthylene	Bromodichloromethane
Acetone	Bromoform
Acetonitrile	Bromomethane
Acetophenone	Cadmium
Aldrin	Carbon disulfide
Allyl chloride	Carbon tetrachloride
Alpha BHC	Chlorobenzene
Aniline	Chloroethane
Antimony	Chloroform
Arsenic	Chloromethane
Barium	Chromium
Benzene	cis-1,2-Dichloroethene

EXHIBIT 1

Appendix F
Contaminants List

1,1,1-Trichloroethane	1,2-Dibromoethane
1,1,2,2-Tetrachloroethane	1,2-Dichlorobenzene
1,1,2-Trichloro-1,2,2-trifluoroethane	1,2-Dichloroethane
1,1,2-Trichloroethane	1,2-Dichloropropane
1,1-Dichloroethane	1,3,5-Trimethylbenzene
1,1-Dichloroethene	1,3-Dichlorobenzene
1,2,3,4,6,7,8,9-OCDD	1,4-Dichlorobenzene
1,2,3,4,6,7,8,9-OCDF	1,4-Dioxane
1,2,3,4,6,7,8-HpCDD	1,4-Naphthoquinone
1,2,3,4,6,7,8-HpCDF	1,4-Phenylenediamine
1,2,3,4,7,8,9-HpCDF	2,3,4,6,7,8-HxCDF
1,2,3,4,7,8-HxCDD	2,3,4,6-Tetrachlorophenol
1,2,3,4,7,8-HxCDF	2,3,4,7,8-PeCDF
1,2,3,6,7,8-HxCDD	2,3,7,8-TCDD
1,2,3,6,7,8-HxCDF	2,3,7,8-TCDF
1,2,3,7,8,9-HxCDD	2,4,5-T
1,2,3,7,8,9-HxCDF	1,2,3,7,8,9-HxCDF
1,2,3,7,8-PeCDD	1,2,3,7,8-PeCDD
1,2,3,7,8-PeCDF	2,4-D
1,2,3-Trichlorobenzene	2,4-Dichlorophenol
1,2,4-Trichlorobenzene	2,4-Dimethylphenol
1,2,4-Trimethylbenzene	2,4-Dinitrophenol
1,2-Dibromo-3-chloropropane	2,6-Dichlorophenol

EXHIBIT 1

Appendix F
Contaminants List

Benzo[a]pyrene	cis-1,3-Dichloropropene
Benzo[b]fluoranthene	Cobalt
Benzoic acid	Copper
Benzyl alcohol	Cyclohexanone
DBCP	Hexachlorobutadiene
delta-BHC	Isobutyl alcohol
Di-n-butyl phthalate	Isophorone
Dibromomethane	Isopropyl alcohol
Dicamba	Isopropylbenzene
Dichlorodifluoromethane	Lead
Dichloropropane	m-Cresol
Diesel Range Organics (C12 - C24)	MCPP
Diethyl phthalate	Mercury
Dimethyl phthalate	Methoxychlor
Dinoseb	Methyl ethyl ketone
EDB	Methyl isobutyl ketone
Endrin	Methylene chloride
Ethane, 1,1,2,2-tetrachloro- 1,2-di	Molybdenum
Ethanol	n-Butylbenzene
Ethylbenzene	N-Nitrosodi-n-butylamine
Fluoranthene	N-Nitrosodiethylamine
Fluorene	N-Nitrosodimethylamine
gamma-BHC (Lindane)	N-Nitrosomethylethylamine

EXHIBIT 1

**Appendix F
Contaminants List**

Hepta-CDDs	N-Nitrosomorpholine
Hepta-CDFs	n-Propylbenzene
Heptachlor	Naphthalene
Heptachlor epoxide	Nickel
Hexa-CDDs	o-Cresol
Hexa-CDFs	o-Xylene
Hexachlorobenzene	p-Cresol
p-Isopropyltoluene	Tetra-CDFs
Penta-CDDs	Tetrachloroethene
Penta-CDFs	Tetrahydrofuran
Pentachlorophenol	Thallium
Phenanthrene	Tin
Phenol	Toluene
Pyrene	Total Petroleum Hydrocarbons as Diesel Fuel
Pyridine	Total xylenes
sec-Butylbenzene	trans-1,2-Dichloroethene
Selenium	Trichloroethene
Silver	Trichloroethylene
Sodium	Trichlorofluoromethane
Styrene	Vanadium
Sulfate	Vinyl acetate
Sulfide	Vinyl chloride
Tetra-CDDs	Zinc

Casmalia Disposal Site

-4-

EPA Region IX AOC No. 99-02(e)

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EXHIBIT 1

EXHIBIT 2

1 LOEB & LOEB LLP
2 ALBERT M. COHEN (SBN 141525)
3 10100 Santa Monica Blvd., Suite 2200
4 Los Angeles, CA 90067
5 Telephone: 310.282.2000
6 Facsimile: 310.282.2200
7 Attorneys for Debtor

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

11 In re: Case No.: 2:12-bk-25842-RN
12 LAKELAND DEVELOPMENT Assigned to Hon. Richard M. Neiter
13 COMPANY, Chapter 11
14 Debtor. **SETTLEMENT AGREEMENT**
15 (Jointly Administered)
16

SETTLEMENT AGREEMENT

19 This Settlement Agreement ("Settlement Agreement") is made between the United
20 States of America, on behalf of the United States Environmental Protection Agency
21 (collectively, the "United States") and Lakeland Development Company ("Lakeland" or
22 "Debtor") and related entities as specified herein.

I. BACKGROUND

24 1. Lakeland is a Delaware corporation. On May 4, 2012, (the "Petition Date")
25 Lakeland filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, 11
26 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code") with this court ("Bankruptcy
27 Court").
28

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1 2. On August 3, 2004, the United States of America ("United States"), on
2 behalf of the Administrator of the United States Environmental Protection Agency
3 ("EPA"), filed a complaint in *United States of America et al. v. Powerine Oil Company*
4 *et al.*, CV04-6435 CMB (JWJx), Central District of California (the "District Court Case")
5 pursuant to Section 107 of the Comprehensive Environmental Response, Compensation,
6 and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607, seeking
7 reimbursement of response costs incurred or to be incurred for response actions taken at
8 or in connection with the release or threatened release of hazardous substances at the
9 Waste Disposal, Inc. Superfund Site in Santa Fe Springs, California ("the WDI Site")
10 from Powerine Oil Company ("Powerine"), CENCO Refining Company n/k/a Lakeland
11 Development Company, and Energy Merchant Corp. ("EMC") (Powerine, Lakeland and
12 EMC are collectively referred to herein as the "Lakeland Related Entities"). The United
13 States also alleged in the complaint that there was a fraudulent conveyance between
14 Powerine and EMC, pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C.
15 §§ 3001-3308, and that Powerine and EMC had failed to respond to information requests
16 in a complete and timely manner, as required by Section 104(e) of CERCLA, 42 U.S.C. §
17 9604(e).

18 3. In addition, on September 28, 1990, the United States sent Powerine a
19 Special Notice letter for the Operating Industries, Inc. Superfund Site ("the OII Site"),
20 located at 900 Potrero Grande Drive, Monterey Park, California, alleging that Powerine
21 was a Potentially Responsible Party ("PRP") at the OII Site.

22 4. Powerine and Lakeland are subject to a Cleanup and Abatement Order
23 (Order No. 97-118) issued by the Los Angeles Regional Water Quality Control Board,
24 and a state court injunction, obtained by the Community Development Commission of
25 the City of Santa Fe Springs, and entered April 14, 2004 (Case No. VC 03890, Los
26 Angeles County Superior Court), requiring remediation of their former oil refinery
27 property, located at 12345 Lakeland Road, Santa Fe Springs, California ("Refinery
28 Property")

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5. On October 14, 1998, EPA sent Powerine a notice letter indicating that Powerine was liable as a *de minimis* party at the Casmalia Resources Superfund Site ("the Casmalia Site"), located in Casmalia, California.

6. The Lakeland Related Entities submitted Financial Information to the United States. The United States reviewed the Financial Information and determined that the Lakeland Related Entities were only able to pay certain amounts to resolve the outstanding disputes with the United States.

7. On February 11, 2008, the Lakeland Related Entities and the United States entered into a Consent Decree (the "Consent Decree") to resolve the District Court Case pursuant to which the Lakeland Related Entities agreed to pay the United States as follows in order to resolve the claims brought against the Lakeland Related Entities in the District Court Case and the other claims identified above (See *United States of America et al. v. Powerine Oil Company et al.*, CV04-6435 CMB (JWJx) (USDC C.D. Cal.), Docket No. 104 ("Consent Decree"), at Section V):

a. The Lakeland Related Entities were required to pay EPA \$1,450,000, plus Interest, pursuant to the following schedule:

1. Within ninety days of entry of the Consent Decree, the Lakeland Related Entities were required to pay \$806,606.00 to be deposited in the WDI Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund;

2. Within ninety days of entry of the Consent Decree the Lakeland Related Entities were required to pay \$100,000.00 to be deposited in the OII Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the OII Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund;

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EXHIBIT 2 AGREEMENT

difficulties they were not able to make the final payment. Since that time the parties have been involved in discussions regarding the final payment, interest, and stipulated penalties.

12. On about November 6, 2008, the United States obtained an Abstract of Judgment against the Lakeland Related Entities from the United States District Court in an amount of \$1,450,000.00 plus interest. The Abstract of Judgment was recorded in the Los Angeles County Registrar's Office on December 16, 2008 and imposed a lien on the all of the Lakeland Related Entities property located in Los Angeles County, including the Refinery Property.

13. Since that time, the Lakeland Related Entities and EPA have been in discussions regarding how to resolve their dispute regarding the debt owed to the United States, including accrued interest and stipulated penalties. Because the Lakeland Related Entities claimed that they did not have sufficient funds, those discussions focused on Lakeland entering a development deal for the Refinery Property with the proceeds being used to (a) satisfy the various liens against the Refinery Property, including the EPA Lien and (b) clean up the Refinery Property.

14. In March 2012, Lakeland entered into an agreement with Western Realco, LLC pursuant to which it agreed, among other things, to loan Lakeland Development Company \$19 million to be used to satisfy the outstanding liens on the Refinery Property and to clean up the Refinery Property. A copy of the Western Realco Agreement is attached hereto as Exhibit A (the "Western Agreement" or "Western Deal"). However, the Western Deal was contingent upon, among other things, the Lakeland Related Entities reaching an agreement with the United States to remove the Abstract of Judgment. Subsequently Western failed to exercise its option.

15. In April 2012, one of the entities which had a lien against the Refinery Property recorded a Notice of Trustee's Sale pursuant to the non-judicial foreclosure provisions of the California Civil Code (Section 2924 et seq.) On May 4, 2012 Lakeland Development Company filed for bankruptcy protection in the United States District Court for the Central District of California, Case No. 2:12-bk-25842-RN.

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3. Within ninety days of entry of the Consent Decree the Lakeland Related Entities were required to pay \$93,394.00 to be deposited in the Casmalia Site Escrow Account;

4. Within 150 days of entry of the Consent Decree the Lakeland Related Entities were required to pay \$225,000.00, plus Interest from the date of entry, to be deposited in the WDI Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund; and

5. Within 210 days of entry of the Consent Decree the Lakeland Related Entities were required to pay \$225,000.00, plus Interest from the date of entry, which shall be deposited in the WDI Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

8. The Consent Decree provided that if the Lakeland Related Entities did not timely make the required payments, they would be subject to interest at the EPA Hazardous Substance Superfund rate, see Consent Decree at Sections IV, Paragraph 3, Subparagraph n. and Section VII., Paragraph 12, and stipulated penalties of \$5,000 per day as provided for in the Consent Decree at Paragraph 13.

9. After expiration of a public notice period the Court entered the Consent Decree and signed it as a Final Judgment on February 11, 2008. (See Consent Decree, Docket No. 104 at Para. 60).

10. The Lakeland Related Entities made the initial three payments. However, in August 2008, the Lakeland Related Entities informed EPA that because of financial difficulties they were unable to make the fourth payment in a timely fashion. The Lakeland Related Entities made the fourth payment, including interest, on October 20, 2008. The payment did not include Stipulated Penalties due under the Consent Decree.

11. The Lakeland Related Entities informed EPA that because of financial

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16. As of June 11, 2012, the balance owed under the Consent Decree was \$6,965,000 which included the unpaid principal balance as well as the Stipulated Penalties. In addition, interest of \$19,386.29 had accrued on the unpaid balance. The debtor is jointly and severally liable for the unpaid amounts along with the other Lakeland Related Entities.

17. On or about September 10, 2012 the Debtor entered into a non-binding Letter of Intent with IRG Ventures, LLC to sell 36 acres of the Refinery Property ("the 36 Acres") for \$19.5 million, of which \$11 million is to pay off liens and \$8 million is for remediation. This deal is contingent upon, among other things, the Lakeland Related Entities reaching an agreement with the United States to remove the Abstract of Judgment. The Debtor and IRG Ventures, LLC are currently negotiating a binding Purchase and Sale Agreement. The Debtor intends to file a motion seeking approval to sell the 36 Acres pursuant to Bankruptcy Code Section 363 and anticipates that, after hearing and the opportunity for overbids, the Bankruptcy Court will determine that the sale of the 36 Acres to the winning bidder ("the Court Approved Sale") is in the best interest of the Debtor. The Court Approved Sale is expected to close on or before February 2013.

18. On or about October 31, 2012, the United States filed a Proof of Claim in this bankruptcy proceeding against the Debtor for the unpaid amounts referred to in paragraph 16 and the amounts secured by the filed Abstract of Judgment.

19. The Debtor and the United States wish to resolve their differences with respect to the U.S. Proof of Claim and the Abstract of Judgment;

20. The Parties agree that the treatment of liabilities provided for herein represents a compromise of the contested positions of the Parties that is entered into solely for purposes of this settlement, and the Parties reserve their legal arguments as to any issues involved in other matters.

21. The United States and the Lakeland Related Entities agree, and the Bankruptcy Court by entering this Settlement Agreement finds, that this Settlement Agreement has been negotiated by the Parties in good faith, that settlement of this matter

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will avoid prolonged and complicated litigation between the Parties, and that this Agreed Order is fair, reasonable, and in the public interest.

THEREFORE, it is hereby agreed as follows:

II. JURISDICTION AND VENUE

22. The Bankruptcy Court has jurisdiction over this matter under 28 U.S.C. §§ 157, 1331, 1334, and 1355. This is a core proceeding under 28 U.S.C. § 157(b)(2).

Lakeland consents to and shall not challenge entry of this Settlement Agreement or the Bankruptcy Court's jurisdiction to enter and enforce this Settlement Agreement. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

III. BINDING EFFECT

23. This Settlement Agreement is binding upon the United States and upon the Lakeland Related Entities, and each of their successors and assigns. Any change in ownership or corporate or other legal status of any of the Lakeland Related Entities, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of the Lakeland Related Entities under this Settlement Agreement.

IV. DEFINITIONS

24. Unless otherwise expressly provided herein, terms used in this Agreed Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations.

25. "Bankruptcy Plan" shall mean each plan of reorganization under 11 USC Sections 1121 - 1129 proposed by the Debtor, including any amendments thereto, which may thereafter be confirmed by the Bankruptcy Court.

26. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

27. "Day" shall mean a calendar day (in computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day).

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28. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

29. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

30. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

31. "Parties" shall mean the United States and the Lakeland Related Entities.

32. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

33. "WDI Site" shall mean the Waste Disposal, Inc. Superfund Site, encompassing approximately 38 acres, located at 12731 E. Los Nietos Rd., in Santa Fe Springs, Los Angeles County, California, and generally shown on the map included in Appendix A.

34. "WDI Special Account" shall mean the special account established for the WDI Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), within the EPA Hazardous Substances Superfund.

V. PAYMENT OF EPA RESPONSE COSTS AND STIPULATED PENALTIES

35. In resolution of all claims for response costs, interest and stipulated penalties allegedly owed to the United States under the Consent Decree and in exchange for the agreement of the United States to release the Abstract of Judgment, as of the Effective Date, the United States, on behalf of the EPA will be paid the Settlement Amount in full. The following amounts shall be paid to EPA by one or more of the Lakeland Related Entities or may otherwise be paid (at its option) by any successor in interest to title of the property affected by the Consent Decree:

a. \$250,000, which shall constitute the final WDI Payment which includes interest owed; and

b. \$500,000 in Stipulated Penalties.

This \$750,000 is referred to herein as the "Settlement Amount."

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36. The Settlement Amount shall be paid in full in cash within thirty (30) days of the closing of the Court Approved Sale.

37. The Settlement Amount shall be transmitted in two separate payments: The final WDI payment, in the amount of \$250,000 shall be deposited in the WDI Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to the Lakeland Related Entities by the Financial Litigation Unit of the U.S. Attorney's Office in the Central District of California following the Bankruptcy Court's approval of this Settlement Agreement. The stipulated penalties payment, in the amount of \$500,000 shall be paid to the EPA Hazardous Substance Superfund in accordance with EFT instructions provided to the Lakeland Related Entities by the Financial Litigation Unit of the U.S. Attorney's Office in the Central District of California following the Bankruptcy Court's approval of this Agreement. At the time of payment to EPA, the Lakeland Related Entities (or the successor in interest making payment, as applicable) shall also send notice that payment has been made to EPA and DOJ in accordance with Section XV of the Consent Decree (Notices and Submissions). Such notice shall specify the amount(s) remitted and refer to EPA Region 9, SSID - 09FY, DOJ case number 90-11-2-156/13, and civil action number CV04-6435 CBM (JWJx).

38. Within thirty (30) days of payment of the Settlement Amount, the United States shall file, in a form substantially similar to Exhibit B, an acknowledgment of satisfaction of judgment with the United States District Court for the Central District of California. Within thirty (30) days of payment of the Settlement Amount the United States shall file a release of its Abstract of Judgment in the Los Angeles County Registrar's Office. The United States shall serve Lakeland with a copy of the

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EXHIBIT 2 AGREEMENT

acknowledgment of satisfaction of judgment and release of Abstract of Judgment by mailing them, by Certified Mail, to:

Michael Egner
12354 Lakeland Road
Santa Fe Springs, CA 90670

With a copy to:
Albert M. Cohen
Loeb & Loeb LLP
10100 Santa Monica Boulevard, Suite 2200
Los Angeles, CA 90067

39. The Debtor agrees that it will provide in its Plan for treatment of EPA's claims in a manner consistent with the terms of this Settlement Agreement.

40. Except as specifically provided herein, all terms of the Consent Decree shall remain in full force and effect. Upon payment of the Settlement Amount, the Lakeland Related Entities (including any successors in interest to title of the real property affected by the Consent Decree) shall be deemed to be in full compliance with the terms of the Consent Decree, shall be relieved of any further obligations to make any payments under the Consent Decree, and shall be entitled to all of the protections afforded to them under the Consent Decree including, but not limited to, the covenants not to sue set forth in Section VIII of the Consent Decree and the Contribution Protection provisions set forth in Section XIII of the Consent Decree.

41. The Lakeland Related Entities waive all claims against the US (including all agencies) with respect to the Site and CD including but not limited to any claim for reimbursement of any amounts paid under the CD or this Settlement Agreement.

VI. MISCELLANEOUS

42. This Settlement Agreement constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the resolution of the

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EXHIBIT 2 AGREEMENT

1 issues that arose as a result of the alleged failure of the Lakeland Related Entities to
2 timely make the payments required by the Consent Decree. The Parties acknowledge that
3 there are no representations, agreements or understandings relating to this Settlement
4 Agreement other than those expressly contained in this Settlement Agreement.

5 43. The Parties enter into this Settlement Agreement for the sole purpose of
6 resolving the claims that arose as a result of the failure to make the payments required by
7 the Consent Decree. The Lakeland Related Entities deny the alleged violations, contest
8 the stipulated penalties and do not admit any liability, fact, or legal conclusion by
9 entering into or complying with this Settlement Agreement. The United States agrees that
10 nothing set forth in this Settlement Agreement shall be used as or construed to be an
11 admission of any fact, allegation or liability alleged by the United States. The United
12 States also specifically reserves, and this Settlement Agreement is without prejudice to,
13 any action based on a failure to meet a requirement of this Settlement Agreement.

14 44. Lakeland's entry into this Settlement Agreement is subject to the approval
15 of the Bankruptcy Court. Lakeland agrees to exercise all reasonable efforts to obtain the
16 prompt approval of the Bankruptcy Court under Bankruptcy Rule 9019 or applicable
17 provisions of the Bankruptcy Code.

18 45. If for any reason the Bankruptcy Court should decline to approve this
19 Settlement Agreement in the form presented or as subsequently modified by agreement of
20 the Parties, this Settlement Agreement shall be null and void and the terms of the
21 agreement may not be used as evidence in any litigation between the Parties.

22 46. If the Court Approved Sale fails to close within 180 days of the effective
23 date of this Settlement Agreement, and the Settlement Amount has not been paid, this
24 Settlement Agreement shall be null and void and the terms of the agreement may not be
25 used as evidence in any litigation between the Parties. If the Court Approved Sale closes
26 within 180 days of the effective date of this Settlement Agreement, the Settlement Amount
27 shall be paid in full within thirty (30) days of the closing of the Court Approved Sale.
28

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EXHIBIT 2
SETTLEMENT AGREEMENT

1 47. Each individual signing this Settlement Agreement represents that he or she
2 is authorized to enter into the terms and conditions of this Settlement Agreement and to
3 execute and bind legally such party to this document.

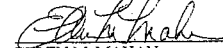
4 48. This Settlement Agreement may not be amended except by a writing signed
5 by all the parties and approved by the Bankruptcy Court.

6 49. The Parties may execute this Settlement Agreement in counterparts.

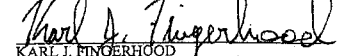
7 50. The effective date of this Settlement Agreement shall be the date upon
8 which it or an order approving it is entered by the Bankruptcy Court.

9 FOR THE UNITED STATES OF AMERICA

10 Date: _____


ELLEN M. MAHAN
Assistant Chief,
Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice

11 Date: 11/14/2012


KARL J. FINGERHOOD
Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice

12 FOR THE UNITED STATE ENVIRONMENTAL
13 PROTECTION AGENCY

14 Date: _____

JANE DIAMOND
Director, Superfund Division
U.S. EPA Region IX

15 Date: _____

TALY L. JOLISH
Assistant Regional Counsel
U.S. EPA Region IX

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EXHIBIT 2
SETTLEMENT AGREEMENT

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9 FOR THE UNITED STATES OF AMERICA

10 Date: _____

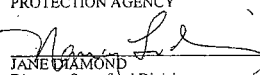
Assistant Attorney General
Environmental and Natural Resources Division
U.S. Department of Justice

11 Date: _____


KARL J. FINGERHOOD
Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice

12 FOR THE UNITED STATE ENVIRONMENTAL
13 PROTECTION AGENCY

14 Date: 11/7/12


JANE DIAMOND
Director, Superfund Division
U.S. EPA Region IX

15 Date: 11/7/12

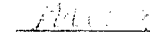

TALY L. JOLISH
Assistant Regional Counsel
U.S. EPA Region IX

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EXHIBIT 2
SETTLEMENT AGREEMENT

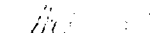
1 FOR POWERINE OIL COMPANY

2 Date: _____


Michael Egner
Chief Financial Officer

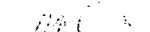
3 FOR LAKELAND DEVELOPMENT COMPANY

4 Date: _____


Michael Egner
Chief Financial Officer

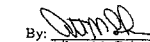
5 FOR ENERGY MERCHANT CORP.

6 Date: _____


Michael Egner
Chief Financial Officer

7 Date: Nov. 7, 2012

LOEB & LOEB LLP
ALBERT M. COHEN

By: 
Albert M. Cohen
Attorneys for Debtor

LA2256420.1
071520-10002

EXHIBIT 2
SETTLEMENT AGREEMENT

EXHIBIT 2

1 2 3	in re: Lakeland Development Company	CHAPTER II CASE NUMBER: 2:12-bk-25842 RN Debtor(s)
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 11500 West Olympic Boulevard, Suite 400, Los Angeles, California 90064-1525

A true and correct copy of the foregoing document described as NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, MEMORANDUM OF POINTS AND AUTHORITIES, DECLARATIONS OF ALBERT COHEN AND VINCENT PAPA will be served or was served (s) on the judge in chambers in the form and manner required by LBR 5005-2(d), and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On November 20, 2012 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Lorie A. Ball lbali@peitzmanweg.com
Russell Clementson russell.clementson@usdoj.gov
Joseph Corrigan Bankruptcy2@ironmountain.com
Lawrence M Jacobson lmj@gflawfirm.com
United States Trustee (LA) ustregion16.la.ccf@usdoj.gov
Howard J Weg hweg@peitzmanweg.com ☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On November 20, 2012, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on November 20, 2012 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Judge Richard Neiter, bin outside courtroom 1645, 255 East Temple Street, Los Angeles, California 90012 (hand delivered by attorney service)
☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 20, 2012 Richard T. Baum /s/ Richard T. Baum

Date	Type Name	Signature
------	-----------	-----------

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009

F 9013-3.1

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

- 18 -

Served by US Mail:

Environmental Protection
75 Hawthorne St
San Francisco, CA 94105

Blank Rome LLP
Lockbox #8586
PO Box 8500

City of SFS-License
11710 E. Telegraph Road
Santa Fe Springs, CA 90870-3858

12345 Lakeland LLC
National Registered Agents Inc
160 Greentree Drive, Ste 101
Dover, DE 19904

Braverman & Co, P.C.
331 Madison Avenue
New York, NY 10017

City of SFS-Planning & Developmt
11710 E. Telegraph Road
Santa Fe Springs, CA 90870

12345 Lakeland, LLC
17901 Von Karman
Suite 950
Irvine, CA 92614

Brownstein Hyatt Farber Schreck
Steven M. Sommers, Esq
410 Seventeenth St, Ste 2200
Denver, CO 80202-4432

Conn, Robert
22503 Kent Avenue
Torrance, CA 90505

AAVCO Electric
13746 Crewe Street
Whittier, CA 90605

Burligh Brewer, Esq
4041 Mac arthur Blvd
Suite 350
Newport Beach, CA 92660

Consolidated Disposal Service
PO Box 78829
Phoenix, AZ 85082-8010

Aetna Health California
PO Box 894920
Los Angeles, CA 90189-4920

CA Dept. of Health Services
PO Box 997414
Sacramento, CA 95899-7414

Continental Building Inc.
13316 Mapledele Street
Norwalk, CA 90650

American Express
PO Box 0001
Los Angeles, CA 90096-0001

South Cal Operation
C. Rudolph Dpt Toxic Control
PO Box 806
Sacramento, CA 95812-0806

COSTCO/HSBS Business Solution
PO Box 5219
Carol Stream, IL 60197-5219

American Speciality Health
Dept. LA 23078
Pasadena, CA 91185-3078

Chemtek Environmental Lab Inc.
13554 Larwin Circle
Santa Fe Springs, CA 90670

CT Corporation
PO Box 449
Carol Stream, IL 60197-4349

Arrowhead
A Division of Nestle Waters
PO Box 858158
Louisville, KY 40285-8158

City of SFS-Fire Department
11300 Greenstone Ave
Santa Fe Springs, CA 90670

Dept of Motor Vehicles
PO Box 942894
Sacramento, CA 94294-0300

Bingham McCutchen LLP
PO Box 3486
Boston, MA 02110

City of SFS-Fier Department
11300 Greenstone Ave
Santa Fe Springs, CA 90670

Dept. of Industrial Relations
Division of Labor Standards

Blank Rome, Lockbox #8586
PO Box 8500
Philadelphia, PA 19178-8586

City of SFS-Legal(Planning)
11710 E. Telegraph Road
Santa Fe Springs, CA 90670

Dept. of Industrial Relations
Division of Labor Standards
300 Oceanplace, Ste 302
Long Beach, CA 90802-4339

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

- 19 -

Dion & Son, Inc.
1543 W.18th street
Long Beach, CA 90813

Isola Law Group, LLP
405 West Pine street
Lodi, CA 95240

Murex Environmental, Inc
2640 Walnut Avenue, Unit F
Tustin, CA 92780

Environment& Natural Resource
PO Box 7611
Washington, DC 20044-7611

Ken Spiker Jr/OCC Office
805 Frankfort Ave
Huntington Beach, CA 92648

Norwalk/LA Mirada
11881 E. Firestone Blvd
Norwalk, CA 90650

Federal Express Corporation
PO Box 7221
Pasadena, CA 91109-7321

Keystone Electric
1989 Freeman Ave
Signal Hill, CA 90755

PDQ Rental Center
10826 Shoemaker
Santa Fe Springs, CA 90670

Franchise Tax Board
Attn: Bankruptcy
PO Box 2952
Sacramento, CA 95812-2952

Loeb & Loeb LLP
Albert M. Cohen Esq
10100 Santa Monica Bl #2200
Los Angeles, CA 90067

Principal Financial Group
PO Box 2000
Mason City, IA 50402-2000

Garcia Joseph J.
PO Box 5311
Norco, CA 92860

Los Angeles County Tax Collect
PO Box 54018
Los Angeles, CA 90054

Pumping Solution Inc
1400 S Vineyard Ave
Ontario, CA 91761

Glickfeld Field & Jacobson LLP
9720 Wilshire Boulevard, Suite 700
Beverly Hills, CA 90212

M Industrial Mechanical, Inc
PO Box 22624
Long Beach, CA 90801

PVF Sales, Inc.
13707 Borate Street
Santa Fe Springs, CA 90670-511

Golden West Machine
9930 Jordan Circle
Santa Fe Springs, CA 90670

Mechanical Seal Repair
3188 Orange Avenue
Signal Hill, CA 90755

R.B Paint & Body Center
10850 Norwalk Blvd
Santa Fe Springs, CA 90670

Greenline Products
13249 E. Imperial Highway
Whittier, CA 90605

Metrohm USA
8555 Pollen Creek Circle
Riverview, FL 33578

Reg. Water Quality Control
Roger Briggs
895 Aerovista Pl., Ste 101
San Luis Obispo, CA 93401

Home Depot Credit Services
PO Box 6031
The Lakes, NV

MGM
3830-B Cherry Avenue
Long Beach, CA 90807

Reliable Equipment Rental Inc
8331 Common Buena Park
Buena Park, CA 90621

International Risk Group
7991 Shaffer Parkway
Suite 400
Littleton, CO 80127

Micronet Computer Consultants
12631 East Imperial Highway
Building A Suite A 211
Santa Fe Springs, CA 90670

REP-LA 1, LLC.
2001 Pennsylvania Ave NW
Suite 400
Washington, DC 20008

Iron Mountain
PO Box 27128
New York, NY 10087-7128

Morse & Associates, Inc
977 Centerville Turnpike, SHB
Virginia Beach, VA 23463

Reuters America LLC
GPO Box 10410
Newark, NJ 07193-0410

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

- 20 -

Ricoch Americas Corp. Lease
PO Box 6434
Carol Stream, IL 60197-6434

Southern California Edison
PO Box 600
Rosemead, CA 91771-001

US Environmental
David Wood, Financial Managemt
75 Hawthorne St
San Francisco, CA 94105

Ricoch Americas Corporation
PO Box 4245
Carol Stream, IL 60197-4245

Standard Insurance Co.
PO Box 5676
Portland, OR 97228-5676

Verizon Business
PO Box 371355
Pittsburgh, PA 15250-7355

Ridgeline
7041 Greenway Parkway
Ste 210
Scottsdale, AZ 85254

Staples Credit Plan
Dept.51-7871681806
PO Box 689020
Des Moines, IA 50368-9020

Verizon California
PO Box 920041
Dallas, TX 75392-0041

Robertson Charitable Remainder
c/o Louis Isakoff, Esq
977 Centerville Trpk, SHB 202
Los Angeles, CA 90071

Superior Sweeping
10429 Salinas River Circle
Fountain Valley, CA 92708

Verizon Wireless
PO Box 860108
Dallas, TX 75266-0108

Sanitation District
1955 Workman Mill Road
Whittier, CA 90601-1400

Tapia Olivia
4277 La Salle Avenue
Culver City, CA 90232

Vision Service Plan
PO Box 45210
San Francisco, CA 94145-5210

Sato Edwin
4618 Opal Street
Riverside, CA 92509

TEG/LVI Environmental Services
13320 Cambridge Street
Santa Fe Springs, CA 90670

Wells Fargo Equipment Finance
300 Tri-State International
Suite 400
Lincolnshire, IL 60069

Seyfarth Shaw LLP
Stacey N. Peak
333 S. Hope Street, Ste 3900
Los Angeles, CA 90071

Theodora Berger
Assistant Attorney General
300 South Spring Street
Los Angeles, CA 90013-1230

White O'Connor Fink & Brenner
10100 Santa Monica Blvd
Los Angeles, CA 90067

Sheppard Mullin
333 South Hope St
48th floor
Los Angeles, CA 90071-1448

Thermo Electron Corporation
1400 NorthPoint PKWY, Ste 10
West Palm Beach, FL 33407

South Coast A.Q.M.D
PO Box 4943
Diamond Bar, CA 91765-0943

Time Warner Cable
PO Box 80074
City of Industry, CA 91716-0074

Southern Cal. Gas Co
PO Box C
Monterey Park, CA 91758

US Environmental Protection
Russell Mecham
75 Hawthorne St
San Francisco, CA 94105

NOTICE OF MOTION AND MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT WITH EPA

- 21 -

File a Motion:2:12-bk-25842-RN Lakeland Development Company

Type: bk

Chapter: 11 v

Office: 2 (Los Angeles)

Assets: y

Judge: RN

Case Flag: PlnDue, DclsDue, Incomplete

U.S. Bankruptcy Court

Central District Of California

Notice of Electronic Filing

The following transaction was received from Richard T Baum entered on 11/20/2012 at 9:19 AM PST and filed on 11/20/2012

Case Name: Lakeland Development Company

Case Number: 2:12-bk-25842-RNDocument Number: 131**Docket Text:**

Motion to approve compromise with United States Environmental Protection Agency Filed by Debtor Lakeland Development Company (Attachments: # (1) Exhibit Ex 1 - Consent Decree# (2) Exhibit Ex 2 - Settlement Agreement) (Baum, Richard)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**Motion App Compromise v 3.pdf**Electronic document Stamp:**

[STAMP bkectStamp_ID=1106918562 [Date=11/20/2012] [FileNumber=60275795-0] [832ff531b074a12abd5974c57b0e306b5054665aaaf92a6801aef4f92670a87496df941c7e3509ad19383213f766a10a9d9ac6b496a81595c5444b2d1275b3e9]]

Document description:Exhibit Ex 1 - Consent Decree**Original filename:**Ex 1.pdf**Electronic document Stamp:**

[STAMP bkectStamp_ID=1106918562 [Date=11/20/2012] [FileNumber=60275795-1] [520dd1176200d33589159f40c4a686ad4b7c1ce455fb6c4780d73de0e3a1c23db73abf33f8d31d5e1060493b9ed01cb2b10a01a625c9d03d344e47b141aa2e0a]]

Document description:Exhibit Ex 2 - Settlement Agreement**Original filename:**Ex 2.pdf**Electronic document Stamp:**

[STAMP bkectStamp_ID=1106918562 [Date=11/20/2012] [FileNumber=60275795-2] [93ce343766a279ee88e97766a8284a40aa38ae9860697b69e4281e6aedd0a60b1584b2e5113c86abd16c6a6c4765ee960226c99ab0b3e1fe8f298829aace1178]]

2:12-bk-25842-RN Notice will be electronically mailed to:

Lorie A Ball on behalf of Creditor 12345 Lakeland, LLC
lball@peitzmanweg.com

<https://ecf.cacb.uscourts.gov/cgi-bin/Dispatch.pl?137113463605189>

11/20/2012

Richard T Baum on behalf of Debtor Lakeland Development Company
rickbaum@hotmail.com, rickbaum@hotmail.com

Russell Clementson on behalf of U.S. Trustee United States Trustee (LA)
russell.clementson@usdoj.gov

Joseph Corrigan on behalf of Interested Party Courtesy NEF
Bankruptcy2@ironmountain.com

Barry S Glaser on behalf of Creditor Los Angeles County Treasurer and Tax Collector
bglaser@swjlaw.com

Noah M Golden-Krasner on behalf of Creditor 12345 Lakeland, LLC
noah.goldenkrasner@doj.ca.gov, gwen.blanchard@doj.ca.gov

Lawrence M Jacobson on behalf of Debtor Lakeland Development Company
lmj@gfjlawfirm.com

Lance N Jurich on behalf of Creditor Loeb & Loeb LLP
ljurich@loeb.com, kpresson@loeb.com

Ronald E Ostrin on behalf of Interested Party Courtesy NEF
ron@ostrinlaw.com

United States Trustee (LA)
ustpreion16.la.ecf@usdoj.gov

Jeanne C Wanlass on behalf of Creditor Loeb & Loeb LLP
jwanlass@loeb.com, kpresson@loeb.com

Howard J Weg on behalf of Creditor 12345 Lakeland, LLC
hweg@peitzmanweg.com

Stephen Wong on behalf of Interested Party Courtesy NEF
swong@spcclaw.com

2:12-bk-25842-RN Notice will not be electronically mailed to:<https://ecf.cacb.uscourts.gov/cgi-bin/Dispatch.pl?137113463605189>

11/20/2012

1 RICHARD T. BAUM
State Bar No. 80889
2 11500 West Olympic Boulevard
Suite 400
3 Los Angeles, California 90064-1525
Tel: (310) 277-2040
4 Fax: (310) 286-9525

5 LAWRENCE M. JACOBSON (SBN 100939)
GLICKFELD, FIELDS & JACOBSON LLP
6 9720 Wilshire Boulevard, Suite 700
Beverly Hills, California 90212
7 Telephone: (310) 550-7222
Facsimile: (310) 550-6222
8

Attorneys for Debtor and Debtor-in-Possession
9 LAKELAND DEVELOPMENT COMPANY

10
11 **UNITED STATES BANKRUPTCY COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **LOS ANGELES DIVISION**
14

15 In re

16 LAKELAND DEVELOPMENT COMPANY,

17
18 Debtor.
19
20
21
22
23

Case No. 2:12-bk-25842 RN

Chapter 11

**NOTICE OF HEARING ON
APPLICATIONS OF CHAPTER 11
PROFESSIONALS FOR APPROVAL
AND PAYMENT OF INTERIM
COMPENSATION AND
REIMBURSEMENT OF EXPENSES;
NOTICE OF DEBTOR'S MOTION TO
PAY SUCH AWARDS FROM CASH ON
HAND WHICH MAY BE COLLATERAL
OF CREDITORS OF THE ESTATE**

Date: November 14, 2012
Time: 10:00 am
Cttrm: 1645

24
25
26 **TO ALL CREDITORS, INTERESTHOLDERS, PARTIES WHO HAVE REQUESTED**
27 **SPECIAL NOTICE, AND OTHER INTERESTED PARTIES:**
28

1 **NOTICE IS HEREBY GIVEN** that on November 14, 2012 at 9:00 am in Courtroom
2 1645 of the United States Bankruptcy Court for the Central District of California, Los
3 Angeles Division, located at 255 East Temple Street, 16th Floor, Los Angeles, California
4 90012, the Bankruptcy Court will consider the applications of Richard T. Baum and
5 Lawrence M. Jacobson of Glickfeld, Fields and Jacobson for allowance and payment of
6 interim compensation and reimbursement of expenses for services rendered in connection
7 with the Chapter 11 case herein.

8
9 For the period May 4, 2012 through September 27, 2012, Richard Baum requests
10 approval of fees in the amount of \$85,556.00 and payment of \$60,347.00 and
11 reimbursement of costs in the amount of \$1,879.33 .

12
13 For the period May 4, 2012 through September 28, 2012, Lawrence Jacobson
14 requests approval of fees in the amount of \$79,988.00 and payment of \$49,835.50 and
15 reimbursement of costs in the amount of 0.00.

16
17 **NOTICE IS FURTHER GIVEN** that the Debtor will seek authority to make payment
18 of those amounts approved from cash which it has on hand, which cash may be the
19 collateral of creditors of this estate, including 12345 Lakeland LLC. That motion will be
20 heard at the same time as these applications.

21
22 **NOTICE IS FURTHER GIVEN** that the applications will be on file with the Court and
23 available for inspection and copying at the office of the Clerk, United States Bankruptcy
24 Court for the Central District of California, Los Angeles Division, located at 255 East
25 Temple Street, 9th Floor, Los Angeles, California 90012. The Applications may also be
26 reviewed on the Court's website, ecf.cacb.uscourts.gov , for those persons with a PACER
27 account. A copy of each application may also be obtained by contacting in writing the
28 professional filing the same.

1 **NOTICE IS FURTHER GIVEN** that objections to the Applications, if any, must be
2 in writing, filed with the United States Bankruptcy Court and served on the United States
3 Trustee, and on counsel for the Debtor-in-Possession at the addresses which appear at
4 the top left hand corner of the first page of this notice. Any such objection which is not so
5 filed and served may be deemed to have been waived. Pursuant to Local Bankruptcy Rule
6 9013-1(f), any objections to any applications must be filed and served not later than
7 fourteen (14) days prior to the scheduled hearing date. Failure to timely file and serve a
8 proper objection may be deemed a consent to the award and payment of fees and
9 expenses as requested.

10
11 Dated: October 15, 2012

LAW OFFICES OF RICHARD T. BAUM and
GLICKFELD, FIELDS & JACOBSON

12
13 /s/ Richard T. Baum

14 RICHARD T. BAUM, Attorneys for
15 Debtor and Debtor-In-Possession
16 LAKELAND DEVELOPMENT COMPANY
17
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23
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26
27
28